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[US Department of the Interior News Briefing](#)



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DOI In The News

Spread The Swamp? Trump Administration Wants To Move Government Offices Out Of Washington.

The [Los Angeles Times](#) (12/7, Halper) reports that Interior Secretary Ryan Zinke is "aiming to move the headquarters of the Bureau of Land Management, the Fish and Wildlife Service and the Bureau of Reclamation out of Washington as soon as logistically possible." The plan was examined Thursday during a hearing of the House Natural Resources Committee.

The [Huffington Post](#) (12/7, D'Angelo) reports that the hearing titled "Transforming the Department of the Interior for the 21st Century," examined "goals and policy ideas for reorganizing and relocating parts of the Department of the Interior and its bureaus," according to a committee memorandum. In his opening statement, Rep. Bruce Westerman, the subcommittee's chairman, "said that Interior has 'lost touch' with the concerns of the U.S. public, and that 'decades of top-down directives issued from Washington' have rendered the department inefficient and unaccountable." However, Rep. Donald McEachin "dismissed the notion that Interior staffers need to be closer to the people they serve, noting that 90 percent of the department's personnel are already working outside of Washington."

[E&E Publishing](#) (12/7, Doyle) reports that a volunteer energy adviser to the Interior Department "cautioned" Thursday "against some of the more dramatic reorganization proposals floated" by Zinke. According to the article, "while emphatically agreeing that Interior could usefully relocate some operations out West, Western Energy Alliance President Kathleen Sgamma identified potential problems in some concepts that Zinke has aired for the Bureau of Land Management and other agencies." Sgamma said she is also "concerned about potential plans for a rotating command structure, similar to a unified command structure in the military," since Interior agencies have different missions.

Senate Confirms Two Interior, EPA Nominees.

[The Hill](#) (12/7, Henry) reports the Senate Thursday confirmed Joe Balash "as assistant secretary for land and minerals management at the Interior Department," and Susan Bodine to head "the Environmental Protection Agency's (EPA) Office of Enforcement and Compliance Assurance, which oversees enforcement of pollution laws." Sen. Sen. Dan Sullivan, for whom Balash worked as chief of staff, called him "probably one of the most qualified people to hold this job in the entire country."

The [Washington Examiner](#) (12/7, Siciliano) reports that "industry officials bemoaned that it took months of 'needless delay' before Balash was finally given a vote." Ethan Lane, Executive Director of the Public Lands Council and the National Cattlemen's Beef Association, said, "A fully

staffed Department of the Interior is critical to the business operation of western ranches, and we are pleased to see another critical position filled.”

Also reporting are the [Fairbanks \(AK\) News-Miner](#) (12/8, Granger), the [Alaska Dispatch News](#) (12/7, DeMarban), the [Alaska Public Radio Network](#) (12/7, Ruskin), and [Must Read Alaska](#) (12/7, Downing).

Senate Panel Considers Nominees For Interior Department, Energy Department.

[DailyEnergyInsider](#) (12/7, Martin) reports that the Senate Energy and Natural Resources Committee on Tuesday considered President Trump’s nominations of Tim Petty to serve as assistant secretary of the Interior for water and science and Linda Capuana to serve as administrator of the Energy Information Administration. Petty served in the Interior Department’s water and science division under President George W. Bush. Committee Chair Sen. Lisa Murkowski (R-AK) said, “I am confident that both of our nominees are well positioned for these roles, and it is certainly my hope to move their nominations quickly through committee to full Senate confirmation.”

President Trump’s National Monument Cuts Draw 5th Lawsuit.

The [AP](#) (12/7) reports that a coalition of conservation groups filed a lawsuit Thursday to stop President Trump’s cuts to Bears Ears National Monument. The lawsuit filed by “11 organizations including the Sierra Club is the fifth legal challenge to Trump’s reductions to Bear Ears and Grand Staircase-Escalante national monuments” and “it is the third lawsuit focused on Bears Ears.” The article notes that “the complaint echoes arguments made in the two previous Bears Ears lawsuits, claiming that Trump exceeded his power and jeopardized protections for ‘irreplaceable archaeological sites.’”

Outdoors Industry Groups Ratchet Up Trump Criticism. [The Hill](#) (12/7, Henry) reports that “President Trump’s decision this week to shrink two national monuments escalated a fight between the outdoors industry and his administration.” Retailers such as Patagonia and REI blasted “Trump’s decision, equating it to theft, while lining up to challenge its legality.” Interior Secretary Ryan Zinke, “who has made conservation and outdoorsmanship a cornerstone of his political persona, has taken the brunt of the criticism from the retailers.” Zinke responded by slamming “Patagonia as a ‘special interest’ that is using the monument issue to help their bottom line.” Also, Interior spokeswoman Heather Swift “noted that the industry is ‘not monolithic’ in its approach to public lands.” She said, “There’s certainly a separation between the many honest people in the outdoor industry and those who spend millions of dollars to lie to the American people in a shameful effort to boost the sales of their foreign-made products.”

[Bloomberg News](#) (12/7, Harris) reports apparel maker Patagonia Inc. filed a lawsuit against President Trump late Wednesday over his decision to reduce the size of the Bears Ears national monument in Utah. Patagonia is joined by other conservation and preservation groups, all claiming the decision “exceeds his authority under the 1906 Antiquities Act.” Patagonia and the other groups, who filed papers in a US District Court in Washington, “are seeking a court order blocking the move.”

The [Wall Street Journal](#) (12/7, Carlton) says outdoor-recreation goods retailer REI also posted a message in opposition to the decision, and promised to ramp up its efforts to better protect public lands. The Journal says at least 1,300 employees of companies represented by the Outdoor Industry Association have sent letters to 426 members of Congress protesting the downsizing. It also quotes Interior Secretary Ryan Zinke as calling Patagonia’s claim a “nefarious, false and a lie.” Zinke stated that such outdoor companies represent special interests that have tried to block federal land from public use, whereas shrinking the monuments is meant to allow multiple uses of the land. He added that removing the lands from monument status still leaves monuments larger than some national parks, and that the removed lands would remain under federal protection.

Also reporting are the [New York Times](#) (12/8, Popovich), the [Denver Post](#) (12/7, Blevins), [The Guardian \(UK\)](#) (12/7, McCarthy), the [Christian Science Monitor](#) (12/7, McCombs, Price), and [Slate](#) (12/7, Bonnington).

‘Largest Ever’ Drilling Lease Sale In Alaska Yields Few Bids.

[The Hill](#) (12/7, Henry) reports that despite auctioning 900 tracts of land in the National Petroleum Reserve in Alaska, totaling 10.3 million acres, the BLM only received bids worth \$1.16 million for seven tracts. The Trump Administration pitched the sale as part of its “American Energy Dominance” plan, but the auction brought in fewer bids than other recent NPR-A sales. [E&E Publishing](#) (12/7) reports ConocoPhillips Alaska and Anadarko bid in partnership for all seven

offerings. The companies selected land directly southwest of Conoco's Willow oil discovery, which is estimated to hold around 300 million barrels of recoverable oil. The state of Alaska held a separate lease sale yesterday, which brought in \$21.1 million in winning bids. The winning bidders purchased most of the remaining blocks of state-owned land on the North Slope.

Dems Use Alaska Oil Lease Sale Numbers To Undermine GOP ANWR Push. The [Daily Caller](#) (12/7, Bastasch) reports Democrats and environmentalists are using the weak sale to counter the GOP's efforts to open the Arctic National Wildlife Refuge to drilling. The sale brought in \$14.99 an acre, which would only translate to \$11 million in federal revenue for the 1.5 million ANWR coastal plain. The spokesman for Democrats on the Senate Committee on Energy and Natural Resources said, "There's simply no market for oil leasing in the Arctic." However, Alaska Natural Resources Commissioner Andy Mack said the results should not be compared. He said, "The biggest point is this is wide open, with not one existing lease in this area." The [Washington Examiner](#) (12/7, Siegel) reports Sen. Maria Cantwell said, "The dismal response to this lease sale proves what we've been saying all along: Even the small amount the GOP claims will be raised by drilling in the Arctic is a sham. ... Congress should strike the language turning the Arctic National Wildlife Refuge (ANWR) into an oilfield and start over." Rep. Raul Grijalva sent a letter to Keith Hall, the director of the Congressional Budget Office, requesting a reassessment of the revenue drilling ANWR would generate. Grijalva said, "In light of yesterday's lease sale in the National Petroleum Reserve, which generated a paltry \$1.2 million for an offering of 10.3 million acres, or only 12 cents per acre, we request that you reassess the cost estimate for the provisions that would open the Arctic National Wildlife Refuge to oil and gas leasing."

[UPI](#) (12/7, Graeber) reports Sens. Elizabeth Warren, Jeff Merkley, and Tom Udall, along with Rep. Alan Lowenthal, joined members of Alaska's indigenous communities to voice opposition to ANWR drilling efforts. Adrenne Titus, an Inupiaq, said, "The Inupiaq people do not want this drilling. ... We do not want to open the Arctic Refuge to drilling."

Additional coverage was provided by the [Alaska Public Radio Network](#) (12/7, Ruskin).

Six Wildfires Continue To Devastate California.

The [CBS Evening News](#) (12/7, lead story, 2:50, Glor) reported that six major wildfires are burning in Southern California, and that the fires have claimed their first death, a woman in Ventura County. Over "100 homes have been destroyed or damaged," while "at least 330,000 people have been evacuated." "Anyone anytime we have erratic winds like this, we're never out of danger. We're not letting our guard down. Firefighters are still down the street here working on structure protection," said Rick Macklin of the Ventura County Fire Department.

[ABC World News Tonight](#) (12/7, lead story, 3:20, Muir) reported that wind gusts in Ventura exceeded 80 miles per hour. The Thomas Fire has now burned over 150 square miles. The Skirball Fire in Los Angeles is 20% contained. [NBC Nightly News](#) (12/7, lead story, 3:25, Holt) reported that 20,000 homes are still threatened by the fires. 55,000 firefighters are working to attack the fires from the ground. In San Diego, hot embers flew through the air and ignited spot fires that can be very devastating very quickly.

The [CBS Evening News](#) (12/7, story 2, 1:45, Glor) reported that the Thomas Fire has burned 96,000 acres and "is only five percent contained." Santa Ana winds are expected to "continue through Saturday with wind gusts between 40 and 60 miles per hour." [NBC Nightly News](#) (12/7, story 2, 1:00, Soboroff) reported that Gary Monday, the Ventura County Fire Department Battalion Chief, said, "This wind event is a historic wind event for our county and the destruction that it's created. With the drought years that we've had, just a bad combination."

[ABC World News Tonight](#) (12/7, story 4, 0:40, Muir) reported that "red flag warnings now have been extended to Sunday with the most extreme fire conditions in the next 12 hours."

Winds will be "gusting 40 to 60 miles an hour over the next 24 to 36 hours." [ABC World News Tonight](#) (12/7, story 3, 2:35, Muir) also reported that Ventura County Fire Chief Mark Lorezen is most concerned about the winds going into the evening. He also said that without rain, the active, multiple fire situation could easily stretch until Christmas. The [Los Angeles Times](#) (12/7, Vives, Parvini, Cosgrove, Sahagun, Serna) reports that "in Sylmar, where the Creek fire is burning, 12,605 acres had been destroyed and the blaze was 10% contained by Thursday morning." The [New York Times](#) (12/7, Medina, Healy) reports that the fire in San Diego County "spread to more than 2,000 acres in five hours, destroying and damaging a relatively small number of homes but threatening at least 1,000 more." In the area around Bel Air, "much of the chaparral that normally covers the hills was ash."

The [New York Times](#) (12/7, Medina, Jordan, Pérez-Peña) reports that "Gov. Jerry Brown declared an emergency in San Diego County on Thursday evening as local officials there widened

the evacuation zone and warned that conditions were expected to worsen." Additionally, state officials have "used the highest category in their color-coded fire hazard warning system," using purple to color much of Southern California. At least 322 schools in the Los Angeles Unified School District have canceled Thursday and Friday classes.

The [Washington Post](#) (12/7, Wilson, Berman, Rosenberg) reports that veteran firefighters have described the situation "as a challenge unlike any fire they had battled before." Los Angeles Fire Department Chief Ralph Terrazas warned "that the forecast of the city's weather and humidity conditions for Friday still put it in the 'extreme range' of fire risk." However, in Los Angeles, "officials announced that the majority of residents who had evacuated would be allowed to return to their homes."

Additional coverage is provided by [ABC World News Tonight](#) (12/7, story 2, 1:50, Muir) and [Bloomberg News](#) (12/7, Caronello, Cannon).

Zinke Spent \$6,250 On A Helicopter Trip To Ride Horses With Pence.

[Business Insider](#) (12/7, Choi) reports that according to previously undisclosed travel logs obtained by [Politico](#) (12/7, Lefebvre), Interior Secretary Ryan Zinke spent thousands of taxpayer dollars on government helicopter trips, including one trip – costing \$6,250 – to ride horses with Vice President Pence. Travel records showed that the helicopter trips altogether cost more than \$14,000 over the summer.

The [Washington Examiner](#) (12/7, Phillips) reports that in response to the Politico report, Heather Swift, a spokesperson for the Interior Department, said, "It's complete garbage and yellow journalism at its worst." She said, "After a congressional hearing, the Secretary attended an official Congressional event with the new Congressman from Montana (who replaced him) and the Speaker of the House before going to an emergency management briefing. On the other occasion he did an aerial survey of a power line corridor, which was pending before the Department, while traveling back from meetings in southern Virginia in order to get to a meeting with the Vice President."

Additional coverage is provided by [The Hill](#) (12/7, Carter), [Newsweek](#) (12/7, Sinclair), the [Huffington Post](#) (12/8, Visser), and the [New York Daily News](#) (12/8, Chia).

Bureau Of Indian Affairs

Wampanoag Tribe Takes Land Into Federal Trust.

The [Vineyard \(MA\) Gazette](#) (12/7, Kennedy) reports that the Bureau of Indian Affairs "this week announced plans to accept into trust about 15 acres of land for the Wampanoag Tribe of Gay Head (Aquinnah), a swath that borders current tribal lands and has frontage along State Road." The land was "actually purchased by the tribe in late 2014, but the BIA decision would join the land with another 480 acres held in trust by the federal government for the tribe's benefit." The article notes that "the move also raises questions about how the tribe might ultimately use the land."

Bureau Of Land Management

U.S. Delays Rule On Methane Emissions From Federal Lands.

[Reuters](#) (12/7, Gardner) reports that the Bureau of Land Management announced it will delay an Obama-era rule limiting methane emissions from oil and gas operations on federal and tribal lands. The agency said the decision was intended to "avoid imposing likely considerable and immediate compliance costs on operators for requirements that may be rescinded or significantly revised in the near future." The [Washington Examiner](#) (12/7, Siegel) reports that the Trump administration's delay for Obama-era methane emissions regulations will extend for two years.

The [Washington Post](#) (12/7, Fears) reports that as the Trump administration appears to back away from a focus on methane leaks, the American Petroleum Institute "has stepped in with a program to reduce the leaks." According to API's Erik Milito, director of upstream and industry operations, "The program overall is set up to continuously improve the environmental performance for onshore operators throughout the country through the process of learning, collaborating and taking action. This is a very robust program."

[E&E Publishing](#) (12/7) reports, "Interior's suspension of the Obama-era rule fits into a broader review of regulations that the Trump administration says 'potentially burden' domestic energy production."

Additional coverage was provided by the [AP](#) (12/7, Daley), the [Washington Post](#) (12/7, Grandoni), the [Washington Times](#) (12/7, Wolfgang), the [Lake Powell Life](#) (12/7, Batchelor), and the [World Oil](#) (12/7).

Cliven Bundy's Fight Against The Feds Has Roots In Interpretation Of Mormon Scripture.

The [Washington Post](#) (12/7, Sottile) reports that "fifteen years before Nevada rancher Cliven Bundy led an armed standoff against federal agents near his arid desert ranch, the practicing Mormon combed through Latter-day Saints scripture and writings with his neighbor, another rancher upset about how the government regulates the public land around them." The two "found support for their beliefs, and they have since passed their findings on to others who continue to challenge what they consider federal overreach and a collapse of the U.S. Constitution." The pair "compiled the works, highlighted and annotated, into an anthology called 'The Nay Book,' named for rancher Keith Nay, Bundy's late neighbor." The document is "rarely found outside Bundy's inner circle, and it appears to lay a religious foundation for the rancher's strong and consistent views that the federal government has been trampling his rights."

Burning Man May Expand To 100,000 People By 2019.

The [Reno \(NV\) Gazette-Journal](#) (12/7, Kane) reports that "despite complaints from some critics that Burning Man is already too big, the organization may make their main event even bigger." As Bureau of Land Management officials in Nevada "review how the annual, weeklong arts festival has affected the surrounding environment and communities since it moved to Nevada in 1990, Burning Man is proposing that the BLM allow the event to grow to 100,000 people in the future." According to the article, "BLM officials and Burning Man organizers met with locals this week from Gerlach, Reno and Lovelock, the three communities most affected by Burning Man, to hear their concerns about growth."

Additional coverage was provided by [USA Today](#) (12/7, Kane).

23 Parcels Of Land Leased In 2 Counties For Oil, Gas Drilling.

The [Grand Junction \(CO\) Daily Sentinel](#) (12/8, Harmon) reports that the Bureau of Land Management on Thursday "leased 23 parcels in Mesa and Garfield counties for oil and gas development, rejecting protests filed by environmental organizations." Baseline Minerals Inc. "paid \$337,480 for the leases, which include 14 in Mesa County, eight in Garfield County and one in both counties." The BLM had "offered 28 leases for lease and the remaining five will continue to be available on a non-competitive basis for two years, after which time they would have to be renominated and go through the formal leasing process."

BLM To Offer 43 Parcels At Quarterly Lease Sale.

The [Moab \(UT\) Sun News](#) (12/7) reports that the Bureau of Land Management will "offer 43 parcels, totaling approximately 51,401 acres in Grand and San Juan counties, at its March 2018 quarterly oil and gas lease sale." Acting Canyon County District Manager Gary Torres said, "BLM continues to support a balanced approach to energy exploration and working landscapes on public lands. We carefully considered comments from the public and our partners in developing the list of parcels and resource protection measures for this lease sale."

Bureau Of Reclamation

Trump Administration Throws Up Hurdles For First New Tribal Water Rights Settlements.

The [Nation Sun News](#) (12/7) reports that the Trump Administration is "expressing major concerns about the first new tribal water rights settlements being considered in Congress." According to the article, "even though the Senate Committee on Indian Affairs rushed through a hearing on the settlements on Wednesday in order for members to get to votes, there was plenty of time for a senior official from the Department of the Interior to outright oppose a bill for Hualapai Tribe and to call for additional work on another for the Navajo Nation." Alan Mikkelsen, the second-highest ranking leader at the Bureau of Reclamation, said the administration "cannot support" S.1770, the Hualapai Tribe Water Rights Settlement Act.

Community Meeting On Future Resorts Set For Lake Berryessa.

The [Napa Valley \(CA\) Register](#) (12/7) reports that the Bureau of Reclamation and Napa County will "host a Lake Berryessa community meeting on resort development next week at the Lake Berryessa Senior Center." The community forum will be held Wednesday at the Lake Berryessa

Senior Center.

Bureau Of Safety And Environmental Enforcement

BSEE Issues Safety Alert Following Drillship Fatality.

[Marine Log](#) (12/7) reports the Bureau of Safety and Environmental Enforcement issued a safety alert after a fatality on Transocean's Petrobras 10,000 drillship. The worker was employed by Spencer Ogden and was working on pipe handling operations at the time of the injury. The BSEE issued the alert because many of the factors in the incident are common to many drilling rigs in the Gulf. The agency is recommending that all operators and drilling contractors review hazardous areas and safe work practices.

Additional coverage was provided by [Maritime Executive](#) (12/7).

Fish And Wildlife Service

U.S. Would Expedite Permit Reviews For Drilling In Alaska's Arctic Refuge.

[Bloomberg News](#) (12/7, Nussbaum) reports that a Trump Administration official said Thursday that it "has a plan in place to speed up permit reviews for drilling in Alaska's Arctic National Wildlife Refuge if Congress approves exploration there." Energy Department Counselor Vincent DeVito said, "We do have a plan for expediting that," adding, "the pathway toward energy dominance runs through Alaska." DeVito "declined to predict a timeline for the process, but said the department is getting 'a regular stream' of inquiries from industry about the potential for exploring in the area." [Reuters](#) (12/7, Resnick-Ault) reports DeVito emphasized the expediting the process would not come at the expense of environmental stewardship.

U.S. Fish And Wildlife Service Issues Revenue Sharing Payments In Winona Area.

The [Winona \(MN\) Daily News](#) (12/7) reports that "under the provisions of the Refuge Revenue Sharing Act, payments totaling \$190,953 were made in July 2017 to counties, cities and townships in the states of Minnesota, Wisconsin, Iowa and Illinois for lands administered by the U.S. Fish and Wildlife Service and managed as part of the Upper Mississippi River National Wildlife and Fish Refuge." The article says that the "annual payment is made to local units of government as compensation for the loss of tax revenue on lands that are part of the National Wildlife Refuge System, National Fish Hatcheries, or Waterfowl Production Areas."

Watchdog To Sue Trump Administration Over 'Injection' Of Politics Into Science.

The [Sputnik News](#) (12/7) reports that the environmental group Center for Biological Diversity said Thursday that it is suing the federal government "over a new policy that gives state governors veto power over including an animal on the endangered species list." The group contended that "assessment teams for evaluating species that could be considered endangered were meant to include only groups of scientists, not representatives of US states' governors, who may not have scientific backgrounds."

Wolf Ruling Has Agency Wrestling With Grizzlies.

[Courthouse News](#) (12/7, YOUNG-GRINDLE) reports that "a court ruling regarding the removal of a wolf population from Endangered Species Act protection has spurred reconsideration of a similar decision for Yellowstone grizzlies." The holding "stems from a lawsuit filed by the Humane Society of the United States in response to the U.S. Fish and Wildlife's action to remove the Western Great Lakes population of gray wolves from federal protection."

Fed Agencies: Permit "Not Likely To Adversely Affect" Endangered Species.

The [Sierra Vista \(AZ\) Herald](#) (12/7, Neff) reports that "a federal judge was told last week the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service concur that a permit needed for the Villages at Vigneto project 'may affect, but is not likely to adversely affect' three species or their critical habitat." In a Nov. 30 filing, the U.S. Department of Justice told U.S. Magistrate Judge Lynnette Kimmins that the FWS "concurred with the Corps' previous determination about the impact on the northern Mexican gartersnake, the southwestern willow flycatcher, and the western yellow-billed cuckoo of a Clean Water Act section 404 permit held by developer El Dorado Benson."

Air Force To Expand Training Area Into Nevada Wildlife Refuge.

The [Las Vegas Review-Journal](#) (12/7, Brean) reports that an environmental impact statement was released Thursday opening the public comment period on "the Air Force's plans to expand its vast training range and close off more of Desert National Wildlife Refuge north of Las Vegas." The Air Force seeks "to add 301,507 acres to the Nevada Test and Training Range, which already covers more than 2.9 million acres in Clark, Lincoln and Nye counties." The article notes that "roughly 278,000 acres of the expansion would be carved from Desert National Wildlife Refuge, about half of which is already under military control."

Public Input Sought On Fishing Plan For Wildlife Refuge.

The [Port Clinton \(OH\) News Herald](#) (12/7) reports that the U.S. Fish and Wildlife Service is seeking public input on a proposal by the Ottawa National Wildlife Refuge to allow recreational fishing within the Metzger Marsh unit.

National Park Service

Pearl Harbor Survivors In Their 90s Attend Solemn Ceremony.

The [AP](#) (12/7, McAVOY) reports that "survivors gathered Thursday at the site of the Japanese attack on Pearl Harbor to remember fellow servicemen killed in the early morning raid 76 years ago, paying homage to the thousands who died with a solemn ceremony marking the surprise bombing raid that plunged the U.S. into World War II." According to the article, "about 20 survivors attended the event at a grassy spot overlooking the harbor and the USS Arizona Memorial. They were joined by about 2,000 Navy sailors, officials and members of the public."

Also reporting are the [Honolulu Star-Advertiser](#) (12/7, Cole), the [Boston Globe](#) (12/7, Thompson), [The Times \(UK\)](#) (12/8), and the [International Business Times](#) (12/7, Varandani).

Bill To Create A Pacific War Memorial Passes House.

[KITV-TV](#) Honolulu (12/7, Ako) reports that "a bill establishing a memorial for U.S. soldiers who lost their lives in the Pacific during World War II, passed the U.S. House of Representatives by unanimous consent Thursday." H.R. 4300, the Admiral Lloyd R. "Joe" Vasey Pacific War Commemorative Act, "directs the National Park Service and the non-profit Pacific Historic Parks to create the memorial." A similar bill is circulating in the Senate.

Zion Sets Visitation Record, Highlighting Crowding Concerns.

The [AP](#) (12/7) reports that Zion National Park has "already set a new visitation record with a month left to go in 2017, a milestone that highlights concerns about overcrowding at the iconic red-rock landscape." According to the article, "nearly 4.4 million people visited the park through the end of November, an increase of about 5 percent over last year." The new figures "come as park officials weigh a first-of-its kind reservation system and the National Park Service considers hiking fees to \$70 per car during the peak summer season at several popular parks, including Zion."

NPS Extends Comment Period On Reservation Plan.

The [Moab \(UT\) Times-Independent](#) (12/7, Egelhoff) reports that the National Park Service has "extended the comment period for its traffic congestion management plan at Arches National Park, with the new deadline set for Dec. 18." The original deadline was set for Nov. 23. Kate Cannon, superintendent of the Southeast Utah Group of National Parks, "said that the extended comment period will give NPS the opportunity to receive more feedback on the reservation system proposed in the plan and is necessary given what she calls 'the confusing timing of the traffic plan announcement.'"

Prehistoric Sea Cow Fossils Discovered In California Could Be Species Entirely New To Science.

[Newsweek](#) (12/7, Dovey) reports that "while mapping fault lines in California, scientists accidentally stumbled upon the 20 to 25 million-year-old fossilized remains of a now-extinct sea cow, a relative of the modern-day manatee and dugong." The researchers "believe the remains may be of a previously unidentified sea cow species, and now want to run tests to confirm the discovery of this possibly previously unknown creature." The sea cow remains were discovered on Santa Rosa Island.

Surveillance Cameras Coming To Downtown As Part Of Partnership With Park Service.

The [St. Augustine \(FL\) Record](#) (12/7, Keever) reports that a wireless camera system, known as WildFire, has been installed to monitor the St. Augustine downtown area as part of a partnership between the St. Augustine Police Department, Flagler College and the National Park Service. [WJXT-TV](#) Jacksonville, FL (12/7, Henning) reports that the National Park Service "invested around \$40,000 for the 14 cameras that are already up and running around the city. The city has invested about \$7,000 dollars in the system."

Park Has A New Superintendent.

The [Pike County \(PA\) Courier](#) (12/7) reports that Kirsten Talken-Spaulding has been named Acting Superintendent of Delaware Water Gap National Recreation Area. John J. Donahue "recently retired from the position of Superintendent after 14 years in the park." Talken-Spaulding said, "I am really looking forward to learning more about Delaware Water Gap National Recreation Area and helping with the transition to a new superintendent. There are a lot of exciting projects going on in the park right now and I want to maintain that positive momentum moving forward."

Osuna Ranch Joins National Register Of Historic Places.

The [Encinitas \(CA\) Coast News](#) (12/7, Macone-Greene) reports that the Osuna Ranch has joined the National Register of Historic Places.

Office Of Insular Affairs

The U.S. Virgin Islands Clean Up For The Holidays.

The [Washington Post](#) (12/7, Sachs) reports that more than two months after Hurricane Irma hit St. Thomas, the U.S. Virgin Islands is "slowly, steadily, painstakingly" improving. The article says that "as high season nears, the U.S. Virgin Islands are scrambling to clean house before the guests arrive." According to the article, "before Thanksgiving, the Virgin Islands Water and Power Authority had restored 40 percent of the power on St. Thomas, St. Croix and St. John; the utility company expects the number to rise to 90 percent by Christmas." Also, "crews are clearing tree limbs, power lines and piles of debris from roadways, and patching up holes the size of moon craters." Meanwhile, "cruise ships are tying up in St. Thomas and St. Croix, and JetBlue and Delta flights are landing on a daily basis."

Opinion Pieces

Ryan Zinke: Why We Shrunk The Monuments.

In an op-ed for [CNN](#) (12/7, Zinke), Interior Secretary Ryan Zinke explains why he recommended that President Trump shrink the Bears Ears and the Grand Staircase-Escalante monuments. Zinke asserts that in recent years, "presidents have abused the Antiquities Act to lock up vast swaths of public land." He argues that the Antiquities Act is "not a tool for presidents to use to restrict access for outdoor recreation on land that belongs to all of us." Zinke writes that "the President's actions focus on protecting land within the smallest area necessary while restoring traditional uses of these lands and prioritizing the voice of the people over that of the special interest groups." He also notes that "this action does not transfer one square inch of this land out of federal ownership." Zinke concludes by pledging to ensure that public lands are used "for the benefit and enjoyment of the people," as the words above the Roosevelt Arch in Yellowstone National Park so proudly proclaim."

President Trump, Come See What Makes America Great

Montana Governor Steve Bullock argues in the [Washington Post](#) (12/7) that Trump's decision to shrink two national monuments in Utah "reveals how at the most basic level he and his administration misunderstand what it means to preserve and protect our history – our heritage – for future generations." He adds, "Frankly, it makes me wonder whether the president is truly committed to investing in what makes America great, because a fundamental part of what makes America great is our land." Bullock argues that public lands "are one of this country's great equalizers" because they belong to everyone, no matter "where we lived, what we did for a living or whom we voted for." He concludes, "Public lands are our history, our heritage and our birthright, and we will not see them diminished. Not on our watch."

Utah National Monuments: Donald Trump Downsizing Follows Federal Law.

In an op-ed for the [National Review](#) (12/7, Bishop), Rep. Rob Bishop writes that President Trump's "historic action" to reduce the Grand Staircase-Escalante and Bears Ears National Monuments "demonstrates that the Trump administration is committed to abiding by the law – whether a majority of Americans want him to or not." According to Bishop, his "decision to shrink the two Utah monuments, which are bigger than all five of the state's national parks combined, indicates that he is serious about squaring the use of the Antiquities Act with the intent of the Congress that passed it." Bishop applauds Trump for "standing up for local communities and adhering to the fundamental props of American government: federalism and the rule of law."

Newt Gingrich: Trump's Monuments Move Won't Harm The Environment – Ignore The Naysayers.

In an op-ed for [Fox News](#) (12/7, Gingrich), Newt Gingrich writes that the Trump Administration's move "this week to reduce the size of the Bears Ears and Grand Staircase-Escalante national monuments in Utah was neither unique nor even out of the ordinary." He notes that "similar actions have been taken at various federal monument sites nearly 20 times before by presidents such as John F. Kennedy, Woodrow Wilson, and Dwight D. Eisenhower." Moreover, Gingrich asserts that "redefining the boundaries of these monuments will not harm the environment, open the flood gates for dangerous mining or natural resource exploitation, or endanger Native American artifacts or historic locations." He writes that "the land around the monuments will continue to be federally protected and managed by one of our several highly-qualified federal land management agencies – which are the same agencies that manage national monuments." Gingrich concludes that President Trump, along with Interior Secretary Ryan Zinke, "are well within the law – and are, in fact, working to correct past illegal behavior which deprived the people of Utah any say over how land in their state could be used."

Additional Reading.

- *Trump's Attack On Public Lands Is Assault On Our Heritage.* [Chicago Sun-Times](#). (12/7)
- *Op-ed: Time To Free America From The Antiquities Act.* [Deseret \(UT\) News](#) (12/7, Wardle).
- *Trump's Slashing Of National Monument Lands Would Be An Irreversible Mistake.* [Boston Globe](#) (12/8, Goodwin).
- *Monument Cuts Show Interior's Zinke Is No Teddy Roosevelt.* [Idaho Statesman](#) (12/7, Barker).
- *What Would Teddy Roosevelt Do?* [Toledo \(OH\) Blade](#) (12/7).
- *It's Time For Gianforte To Stand Up For Public Lands.* [Missoulian \(MT\)](#) (12/7, Doyle).
- *Other Views: A Monumental Mistake.* [East Oregonian](#) (12/7).
- *Monumental Disappointment.* [Durango \(CO\) Telegraph](#) (12/7, Votel).
- *Oregon Should Fight For Cascade-Siskiyou Monument.* [Salem \(OR\) Statesman Journal](#) (12/7).
- *Sabinoso Wilderness Opening A 'Blessing'.* [Albuquerque \(NM\) Journal](#) (12/8, Jones).
- *Good So Far On The Rio Grande Del Norte.* [Albuquerque \(NM\) Journal](#) (12/8).
- *Op-Ed: Zinke Betrayed The Tribal Nations.* [Outside](#) (12/7, Lopez-Whiteskunk).
- *Our Opinion: 'A Partner Rather Than An Adversary'.* [Apalachicola \(FL\) Times](#) (12/7).
- *State Would Benefit From ANWR Leases.* [Vidette \(WA\)](#) (12/7, Brunell).
- *Associated Press Story Presents Flawed Portrayal Of Mining Rule.* [Montana Standard](#) (12/7, Johnson).
- *OPINION: The Ecological And Political Importance Of The White-tailed Prairie Dog.* [Pagosa \(CO\) Daily Post](#) (12/7, Talbot-Heindl).
- *Still Much Work To Be Done To Protect Manatees.* [Chiefland \(FL\) Citizen](#) (12/7, Holbrook).
- *Interior Department's Return To The 'Robber Baron' Years.* [High Country \(CO\) News](#) (12/8, Thompson).
- *Proper Fire Funding Continues To Elude Congress (Why A Fire Funding Solution Has Eluded Congress).* [High Country \(CO\) News](#) (12/6, Worby).

Top National News

Continuing Resolution Clears Congress As Trump Meets With Leaders On Budget.

As the House and Senate passed a continuing resolution to push the government shutdown deadline back to December 22, President Trump met at the White House with Senate Majority Leader McConnell, Senate Minority Leader Schumer, House Speaker Ryan, and House Minority Leader Pelosi to discuss budget matters. But coverage focuses mainly on the CR vote, with most sources saying that crafting a budget over the next two weeks will be a very difficult task.

[ABC World News Tonight](#) (12/7, story 8, 0:25, Muir) called it "a reprieve from a possible government shutdown tomorrow night. President Trump meeting with Republican and Democratic leaders of Congress at the White House today, to discuss a new budget, both sides calling it 'productive.' Meantime, the House and the Senate both voting to move the shutdown deadline, now to December 22, three days before Christmas. Obviously, that puts off the tough negotiating now for another two weeks." Hallie Jackson reported on [NBC Nightly News](#) (12/7, story 6, 1:00, Holt), "Bottom line: No shutdown, at least for now." Jackson said the White House meeting had "plenty of talking, just not a lot of agreement: Republicans pushing for more military spending, Democrats looking for immigration concessions."

The [AP](#) (12/8, Taylor, Fram) reports that the "stopgap spending bill...passed the House [235-193](#), mostly along party lines, and breezed through the Senate on a sweeping [81-14](#) tally barely an hour later. It would keep the government running through Dec. 22, when another, and more difficult, shutdown problem awaits." The [Los Angeles Times](#) (12/7, Mascaro) reports, "Congress faces a time crunch to reach agreement amid broad divisions. Thursday's vote essentially punts the potential crisis to right before the Christmas weekend."

The [New York Times](#) (12/7, Kaplan) reports, "The approval came as congressional leaders from both parties met with Mr. Trump at the White House to talk about the thicket of issues facing lawmakers as the end of the year approaches," including "the passage of bipartisan legislation intended to stabilize health insurance markets under the Affordable Care Act," the allocation of "tens of billions of dollars in response to this year's hurricanes," and funding for the Children's Health Insurance Program.

The [Washington Post](#) (12/7, Debonis) reports that Trump said at the Oval Office meeting, "We're all here today as a very friendly, well-unified group, well-knit-together group of people. We hope that we're going to make some great progress for our country. I think that will happen, and we'll appreciate it very much." However, the Post writes, "there are clear obstacles to any deal. Trump himself cast doubt Wednesday, telling reporters that Democrats 'want to have illegal immigrants pouring into our country, bringing with them crime, tremendous amounts of crime.'"

[The Hill](#) (12/7, Carney) reports that McConnell "said the stopgap measure would 'provide us with the time we need to complete discussions on a long-term solution.'" The [Wall Street Journal](#) (12/7, Peterson) reports that Ryan said, "We'll be working together in the next two weeks to find a long-term solution to our funding needs while maintaining fiscal discipline."

[Politico](#) (12/7, Bresnahan, Ferris, Cook) writes that though "Congress passed a two-week funding bill...a day ahead of the deadline," lawmakers "face a turbulent next few weeks as they try to clinch a broader budget deal by the end of the year." [Fox News](#) (12/7, Chamberlain) similarly reports that "while the bill keeps the government running for now, it would set up a pre-Christmas showdown."

A [Daily Caller](#) (12/7, Brufke) report is headlined "Congress Dodges Gov't Shutdown, Passes Two-Week Spending Bill," while [Reuters](#) (12/7, Cowan) and [Bloomberg News](#) (12/7, Wasson, Litvan) also have reports.

Violence Erupts In Wake Of Trump's Recognition Of Jerusalem As Israel's Capital.

Media reporting on the reaction to President Trump's Wednesday recognition of Jerusalem as Israel's capital is once again very negative. Reports highlight the violent protests that erupted Thursday in the region and continued criticism of the move by US allies.

All three networks reported last night on the protests. [NBC Nightly News](#) (12/7, story 8, 1:20, Holt) reported, "In the Middle East, violence erupting over President Trump's controversial decision." The Palestinians, who are "rejecting the President's declaration" and "say they've lost confidence in the United States' ability to be an honest broker," are clashing with Israeli troops. The [New York Times](#) (12/7, Kershner) reports Palestinians clashed with Israeli forces Thursday "as widespread predictions of unrest were realized a day after President Trump took the high-risk move of recognizing Jerusalem as Israel's capital." The Israeli military said it was sending additional troops to the West Bank in response to the protests, while the Palestinian response "appeared to be teetering between a limited wave of protests and a full-blown explosion of violence."

[ABC World News Tonight](#) (12/7, story 9, 1:20, Muir) reported that "just 24 hours after"

Trump's announcement, the clashes have already left more than 100 people injured in Palestinian territories. The "fear...is if people really start to believe that the peace process is dead, then these [clashes] will grow." In fact, ABC's James Longman continued, leaders of Hamas have "even call[ed] for a third intifada," and [Fox News Special Report](#) (12/7) reported that in Lebanon, Hezbollah's leader "echoed the battle cry." The region is "bracing for more violence" on Friday, when "there could also be widespread anti-US, anti-Israeli demonstrations." The [AP](#) (12/7, Federman) likewise says Israeli forces "were bracing for the possibility of even stronger violence on Friday, when tens of thousands of Palestinians attend weekly prayers at Jerusalem's Al Aqsa Mosque."

The [Washington Post](#) (12/7, Eglash, Morris) reports the Israeli army "said it was preparing for an increase in violence in the coming days," and US institutions in the region "were also readying themselves for a possible violent fallout."

On the [CBS Evening News](#) (12/7, story 10, 1:00, Glor), Seth Doane covered some of the clashes from Bethlehem in the West Bank. Doane: "You can hear that tear gas being fired over and over again. ... You can see some of these guys [Palestinians] have slingshots. They are firing rocks toward the much-better-armed Israelis."

The [Washington Post](#) (12/7, Cunningham, El-Ghobashy), meanwhile, reports that leaders from across the Middle East condemned President Trump's decision, "with US allies and foes alike denouncing the move as reckless and likely to ignite further violence in the region." Criticism of the move "poured in from US allies and foes alike, from Morocco to Saudi Arabia to Iran. ... Even stalwart US allies in the Gulf – normally enthusiastic fans of Trump's presidency, reprimanded the administration."

The [Wall Street Journal](#) (12/7, Jones, Stancati) reports Saudi Arabia in a statement Thursday criticized the Administration's decision and called on the White House to reverse the "irresponsible and unwarranted step," saying it would lead to "a drastic regression" in peace prospects. Iraq's Foreign Ministry summoned US Ambassador Douglas A. Silliman to hand him a letter of protest over the decision.

[Reuters](#) (12/7) reports that a senior Palestinian official in President Mahmoud Abbas's Fatah party said Thursday that Vice President Pence, due to visit the region later this month, "is unwelcome in Palestine." Jibril Rajoub said, "We will not welcome Trump's deputy in the Palestinian Territories. He asked to meet (Abbas) on the 19th of this month in Bethlehem, such a meeting will not take place." The [AP](#) (12/7, Federman) likewise says Rajoub "said the Palestinians would not meet with Pence during his visit to the region later this month," but "a White House official said Pence still plans to meet with Palestinian President Mahmoud Abbas as scheduled." [Politico](#) (12/7, Nussbaum) quotes a "White House official" as saying Pence "still intends to meet with Abbas and Palestinian leaders and thinks any decision to pull out of the meeting would be counterproductive."

The [Los Angeles Times](#) (12/7, Zedan, Bulos) reports Palestinian politician Mustafa Barghouti argued that Trump's decision "forbids Palestinians from having any contact with the US," which, he said, "has completely lost its role as a broker of the peace process."

"White House officials" told the [Jerusalem Post](#) (12/7, Wilner) that Trump's decision "was made separately from a deliberative, 10-month effort to restart direct peace talks between Israelis and Palestinians led by Jared Kushner, the president's son-in-law and senior adviser." Trump's action, the said, "was ultimately driven by the president himself." One White House official said. "This was a separate decision from the [peace] process. But as you can see from the President's speech, we remain incredibly committed." Administration officials told the Post "they take seriously Palestinian and Arab concerns and understand the reaction that has followed Trump's speech," but they "hope their anger will pass."

The [Washington Times](#) (12/7, Persons) reports US Ambassador to Israel David Friedman said Thursday that Trump's move "brings a greater chance of peace in the region." Friedman said on [Fox News' Fox & Friends](#) (12/7), "The President didn't want the Israelis to show up at the bargaining table and be forced to negotiate for something they already had." He added that the move "reflects the popular will." Friedman also said on [Fox News' Fox & Friends](#) (12/7), "If you look at the peace process if you will over the past 25 years, the Palestinians have had a basket of issues that they have been attempting to advance during the course of the negotiations. ... The President made very clear he wasn't seeking to foreclose any of those issues. But here's what the President did want to foreclose. He wanted to foreclose the fantasy, and that's all it is a fantasy, that somehow Jerusalem could be disconnected from the state of Israel."

On its front page, the [New York Times](#) (12/7, A1, Landler, Halbfinger, Kershner) says that while Trump declared the US still supported a two-state solution, chief Palestinian negotiator

Saeb Erekat said in an interview Thursday that Trump and Prime Minister Benjamin Netanyahu of Israel "have managed to destroy that hope." He added, "They've left us with no option. This is the reality. We live here. Our struggle should focus on one thing: equal rights." The Times says that while Erekat's "change of heart is unlikely to change Palestinian policy," the fact that he is "speaking openly about it attests to the turmoil caused in the Middle East by Mr. Trump's recognition of Jerusalem."

"All but two of 11" former US ambassadors to Israel contacted by the [New York Times](#) (12/7, Chan) said they thought the plan was "wrongheaded, dangerous or deeply flawed." One of the exceptions was Ogden R. Reid, who served as ambassador from 1959 to 1961, who said, "I think it's the right decision. Not a lot more to say." The other exception was Edward S. Walker Jr., who was ambassador from 1997 to 1999, who said, "I think it's about time. We've been remiss in not recognizing realities as they are. We all know Israel has a capital, it's called Jerusalem, and over my 35 years of service in the Middle East no one ever questioned that."

Fareed Zakaria writes in his [Washington Post](#) (12/7) column that with the decision, Trump "did something puzzling for a person who claims to be a great dealmaker. He made a massive, preemptive concession to one side in a complicated negotiation without getting anything for it in return." He writes that "if this move were part of a larger strategic plan, that would be one thing," but "instead, it appears to be a one-off decision, designed largely to delight core elements of Trump's base at home – evangelical Christians and pro-Israel donors."

White House Says US To Attend Winter Olympics Despite Haley Remarks.

The [New York Times](#) (12/7, Shear, Mullany) reports that US officials "expressed concern about security at the Winter Olympics in South Korea in February, initially raising the possibility of withdrawing from the games but later insisting that American athletes will compete." UN Ambassador Haley said Tuesday night on [Fox News' The Story](#) (12/5) that it was an "open question" whether American athletes would participate in the Winter Games, given the tensions on the Korean Peninsula. White House press secretary Sarah Sanders "echoed" Haley's remarks during Thursday's press briefing, saying that "no official decision has been made" about participation. But "moments later," Sanders "took to [Twitter](#) to clarify," saying that "the US looks forward to participating in the Winter Olympics in South Korea. The protection of Americans is our top priority and we are engaged with the South Koreans and other partner nations to secure the venues." However, Mark Jones, a spokesman for the US Olympic Committee, "said there had been no discussion of American athletes' staying away."

The [Washington Post](#) (12/7, Maese) likewise reports that "despite Haley's remarks," Jones said, "We have not had any discussions, either internally or with our government partners, about the possibility of not taking teams to the 2018 Olympic and Paralympic Winter Games. We plan on supporting two full delegations in PyeongChang."

[Bloomberg News](#) (12/7, Olorunnipa) says Sanders' tweet "came less than an hour" after she told reporters "that the US government – and President Donald Trump – had yet to decide whether to participate, appearing to raise doubts" about their safety. A "US official" told [NBC Nightly News](#) (12/7, story 9, 1:25, Holt) that "Haley's comments were taken out of context. Still, it all underscores the escalating tensions with North Korea."

Noting the comments by both Haley and Sanders, [The Hill](#) (12/7, Mitchell) notes that National Security Adviser McMaster, meanwhile, "earlier this week told Fox News that Americans should feel safe attending the games."

Lavrov: North Korea Open To Direct Talks With US. [The Guardian](#) (12/7, Borger) reports Russian Foreign Minister Sergei Lavrov Thursday conveyed to Secretary of State Tillerson that "North Korea is open to direct talks with the US over their nuclear standoff." According to Russia's Interfax news agency, Lavrov said during an international conference in Vienna, "We know that North Korea wants above all to talk to the United States about guarantees for its security. We are ready to support that, we are ready to take part in facilitating such negotiations. ... Our American colleagues, [including] Rex Tillerson, have heard this." The Guardian reports that Tillerson didn't immediately respond to Lavrov's comments.

North Korea: US Threats Make War Unavoidable. [Reuters](#) (12/7, Kim, Yang) reports that two US B-1B heavy bombers joined large-scale combat drills over South Korea on Thursday "amid warnings from North Korea that the exercises and US threats have made the outbreak of war 'an established fact.'" North Korea's Foreign Ministry said the drills and "confrontational warmongering" by US officials for making war inevitable. "The remaining question now is: when will the war break out?" it said in a statement. "We do not wish for a war but shall not hide from it."

Cotton: China More Of An Adversary Than An Ally On North Korea. In an interview with the [AP](#) (12/7, Lardner, Kellman), Sen. Tom Cotton "said China is more of an adversary than an ally on North Korea." In response, Cotton told the AP that the US "should expand its military presence on and around the Korean Peninsula to pressure China into being a serious partner in the campaign to defuse North Korea's nuclear program."

Official: Trump Will Release Infrastructure Plan In January.

[Bloomberg News](#) (12/7, Niquette) reports that "a senior administration official" said President Trump plans to release "his long-promised infrastructure proposal in early January." According to the official, Trump plans "to release a detailed document of principles, rather than a drafted bill, for upgrading roads, bridges, airports and other public works before the Jan. 30 State of the Union address." The official added that the plan "is essentially complete and Trump recently reviewed it." It calls for "allocating at least \$200 billion in federal funds over 10 years to spur at least \$800 billion in spending by states, localities and the private sector." However, Bloomberg says "infrastructure advocates" question whether congressional Republicans can "pass a spending plan with enough federal funding if it's already approved a tax measure that official estimates say would bloat the budget deficit. Some say the administration missed its best opportunity to deliver a meaningful public works initiative by not incorporating it into the tax bill."

Trump Open To Reforming Biofuel Policy.

[Reuters](#) (12/7, Cornwell) reports that President Trump would be "open to reforming the country's biofuels policy if it can be done in a way that protects jobs in both the refining and agriculture industries, senators said on Thursday after a meeting with Trump on the issue." The revelation came after a meeting requested by nine lawmakers who argued "that the Renewable Fuel Standard, or RFS, a law requiring refiners to blend increasing amounts of biofuels like corn-based ethanol into the fuel supply every year, was threatening to put refineries in their districts out of business." Sen. Ted Cruz said that the group agreed to reconvene next week.

Trump Administration Rolls Back Oil Train Brake Rules.

The [AP](#) (12/7) reports on the Trump Administration's decision to drop the Obama Administration's rule change that would have required the installation of electronically controlled pneumatic brakes by 2021 on trains carrying hazardous or flammable materials. The rule and brake system was "intended to help prevent fiery oil train wrecks like the one that happened in the Oregon last year, Oregon Public Broadcasting reported Thursday." Columbia Riverkeeper Conservation Director Dan Serres said, "we're definitely frustrated that the Trump administration is weakening standards that are not strong enough to begin with."

The [Seattle Post-Intelligencer](#) (12/7, Connelly) reports, "The U.S. Department of Transportation is junking a key, 2015 initiative enacted in the wake of the Lac-Mégantic explosion and fire in which a runaway oil train wiped out the center of the small Quebec town and killed 47 people."

DOT Kills Rules Requiring Airlines To Disclose Fees.

[Bloomberg News](#) (12/7, Levin) reports that the Department of Transportation announced that it was withdrawing one pending regulation that "would have required airlines and ticket agents to disclose to consumers all fees during the process of buying a ticket" and another that "would have collected more detailed revenue information from large carriers." The withdrawals are part of the Trump Administration's "effort to reduce regulatory burden on US businesses." "Having the DOT step back from developing rules to allow consumers to know the full price of travel and to be able to comparison shop is an affront to America," said Travelers United, an advocacy group for passengers, in a statement.

Trump EPA Vows To Replace Clean Power Plan.

[The Hill](#) (12/7, Cama) reports that the EPA is pursuing a replacement for the Clean Power Plan after the Trump administration vowed to repeal the regulation. The Trump administration's climate rule "is likely to be far weaker than Obama's, which sought a 32 percent reduction in the power sector's carbon emissions."

The [Washington Examiner](#) (12/7, Siegel) reports that in his first testimony before Congress on Thursday, EPA Administrator Scott Pruitt said he "plans to replace the Obama-era Clean Power Plan, instead of just killing it outright." However, Pruitt has also criticized the endangerment finding, – which forces the EPA to regulate carbon dioxide and other greenhouse gas, – saying

the endangerment finding was “accelerated” and “short-shrifted.”

[The Hill](#) (12/7, Henry) reports that EPA Administrator Scott Pruitt claimed the EPA under the Obama administration engaged in a “breach of process” when it relied on United Nations science for part of its endangerment funding. Pruitt cited a Bush administration-era ruling that determined federal law had not declared greenhouse gases as dangerous enough to warrant regulations.

EPA Chief Preparing For Climate Change Debates. [Reuters](#) (12/7, Volcovici) reports that the EPA could launch a “red team, blue team” debate on climate change as soon as January, according to EPA Administrator Scott Pruitt. Pruitt “is reportedly vetting a list of scientists that have expressed doubts over climate change to take part in the upcoming debates, including some that have been recommended by conservative groups like the Heritage Foundation.”

Paris Climate Accord Unlikely To Be Revived Under Trump, Experts Say.

[E&E Publishing](#) (12/7, Chemnick) reports that the Trump administration has said that any plans to return to the Paris climate accord would involve a “heads-of-state discussion” to find “more favorable terms” for the United. Others, however, believe that any path back to the agreement would “involve Chinese President Xi Jinping.” According to Jim Connaughton, former White House Council on Environmental Quality chief under President George W. Bush, “The only thing that matters, in my view, is agreement between the U.S. and China.” He “he acknowledged that neither Xi nor Trump is likely to ask for a new climate deal,” and “the Chinese leader is comfortable with the status quo, and Trump doesn’t care about the issue.”

Announcing His Resignation, Franken Takes Shots At Trump, Moore.

Under intense pressure from his Democratic colleagues, Sen. Al Franken – speaking from the Senate floor – on Thursday announced his resignation, amid accusations of sexual misconduct. In his remarks, Franken, without mentioning them by name, jabbed at President Trump and Alabama Senate candidate Roy Moore, both of whom have been accused of sexual misconduct – comments highlighted in nearly every report on the Minnesota Democrat’s speech. In addition, much of the coverage emphasizes two themes: that Democrats are moving to contrast their tough stance on sexual harassment with that of the GOP; and Franken did not apologize to his accusers for his alleged behavior.

On [ABC World News Tonight](#) (12/7, story 5, 3:00), David Muir reported that in his resignation speech, “Franken pointed to what he called the irony, the allegations against the current president and against Roy Moore running for Senate, both with strong support from the” GOP. Franken was shown saying, “I, of all people, am aware that there is some irony in the fact that I am leaving, while a man who has bragged on tape about his history of sexual assault sits in the Oval Office, and a man who has repeatedly preyed on young girls campaigns for the Senate with the full support of his party.”

On the [CBS Evening News](#) (12/7, story 3, 2:15, Glor), Nancy Cordes reported that “Franken bowed to pressure today, but did not bow to his accusers.” Franken was shown saying, “Some of the allegations against me are simply not true. Others, I remember very differently.” Cordes said, “If anything, Franken suggested he is the victim of a double standard.” Franken: “I am leaving while a man who has bragged on tape about his history of sexual assault sits in the Oval Office.” Cordes added, “Like President Trump, Franken is accused of groping multiple women before he came to Washington.”

On [NBC Nightly News](#) (12/7, story 5, 2:00, Holt), Kasie Hunt reported that Franken “had been fighting to keep his job after seven women came forward to accuse him of sexual misconduct – too many for 15 women senators who demanded he step down. Franken insisting today he did nothing wrong. ... But this photo of Franken on a USO tour in 2006 with a sleeping Leeann Tweeden, for which he apologized, unleashed a half dozen more accusations.”

The [Los Angeles Times](#) (12/7, Decker) reports, “The criticism of Trump set the tone for an unusual resignation speech. Franken’s remarks did not include an apology – indeed, he appeared to have pulled back from a Nov. 16 statement in which he said he was ‘ashamed’ of behavior that was ‘completely inappropriate’ when it came to one of the women who has accused him of misconduct.” The [AP](#) (12/7, Fram) reports that while Franken “reluctantly” resigned in the face of “a torrent of sexual harassment allegations and evaporating support from” his Democratic colleagues, “he fired a defiant parting shot at...Trump and other Republicans he said have survived much worse accusations.” The AP describes Franken as delivering “largely unapologetic remarks.”

[Reuters](#) (12/7, Brice) reports that Franken “said he would be leaving in a few weeks,” but “denied some of the allegations against him and questioned others. ‘I know in my heart that

nothing I've done as a senator – nothing – has brought dishonor on this institution,' Franken said. 'Nevertheless, today I am announcing that in the coming weeks, I will be resigning as a member of the United States Senate.'" The [Minneapolis Star Tribune](#) (12/7, Brooks, Rao) reports, "A spokesman later said there was not yet a set timeline for Franken to resign and that he would continue to perform regular Senate duties in the meantime." On its front page, the [Wall Street Journal](#) (12/7, A1, Andrews, Hook) reports that Franken described himself as a "champion of women" and "someone who respects the women I work alongside every day." Referring to the allegations, Franken said a "very different picture has been painted of me over the last few weeks, but I know who I really am."

The [Washington Times](#) (12/7, Miller) reports that Franken "said he was stepping down despite knowing he was not guilty of the behavior described by his accusers. He said it was the right thing to do for the people of Minnesota. 'I may be resigning my seat but I am not giving up my voice,'" Franken said, "vowing to continue his work as a political activists." [The Hill](#) (12/7, Carney) reported that Franken "expressed confidence that an ethics panel would have cleared him." [Bloomberg News](#) (12/7, Litvan) reports, "The ethics probe now will be canceled."

The [Washington Post](#) (12/7, Kindy) reports, "In interviews, Franken's accusers said the lawmaker made the right decision." However, Tina Dupuy, a former Democratic congressional aide who on Wednesday had accused Franken of groping her in 2009, said of Franken's remarks, "His speech was about his experience, his grief, his embarrassment and his pain and had nothing to do with the female experience of what he did against his accusers. It was a very un-empathetic speech to the women who told him and the public that it was not okay. There was no apology."

The [Minneapolis Star Tribune](#) (12/7, Brooks) quotes Sen. Amy Klobuchar, a fellow Minnesota Democrat, as saying of Franken's speech, "I know that he didn't really apologize to the people and that would have been nice." In an editorial, the [Washington Post](#) (12/7) says, "As with the departure of Mr. Conyers, Mr. Franken's choice to leave Congress sends an important message that even powerful men can be held accountable for their misconduct. It's disappointing that the senator, who appears to recognize the power of this cultural moment, chose to dwell on his accomplishments during his resignation speech rather than apologize."

The [St. Paul \(MN\) Pioneer Press](#) (12/7, Orrick) reports that Franken's "departure means Democrats can attempt to claim the moral high ground on sexual misconduct, having purged their ranks." The [Washington Post](#) (12/7, O'Keefe, Viebeck, Tumulty) reports that the resignations this week of Rep. John Conyers and Franken "over allegations of inappropriate behavior points to the wider reckoning taking place around the country as women come forward to accuse powerful men of misconduct."

The [New York Times](#) (12/7, Stolberg, Alcindor, Fandos) reports, "Democrats and their leaders forced Mr. Conyers and Mr. Franken out in a succession of coordinated statements that made clear that their continued presence would be untenable. ... Democrats appear determined to grab the moral high ground in an environment in which they hope sexual harassment becomes a wedge issue in the 2018 midterm elections – even if it costs them popular colleagues and political icons." In an analysis for the [Dallas Morning News](#) (12/7, Gillman), Todd Gillman writes, "Heading into the 2018 elections," Franken's forced resignation "means Democrats can claim some high ground. They're the party of moral rectitude, in contrast to the Republicans who tolerate – or even rally around – Roy Moore."

The [Washington Post](#) (12/7, Tumulty) reports that with Democrats "looking for a way out of the wilderness," forcing Franken to resign "was both a moral and political calculation. It was the Democrats' strongest declaration yet that they – unlike the Republicans – are willing to sacrifice their own in the interest of staking out the high ground." [Politico](#) (12/7, Dove) reported, "For a party heading into 2018 planning to run against Republicans as morally and legally corrupt," Democrats "know they need a clean argument. ... And with the standard now set by Conyers and Franken, they know that will likely mean the end of" freshman Rep. Ruben Kihuen (D-NV) "along with any other Democrat confronted with credible allegations of harassment or assault."

In her [Wall Street Journal](#) (12/7, Noonan) column, Peggy Noonan says that the tone of Franken's resignation speech was bitter and lacked modesty. Noonan also says the Democratic Party is moving to seize the moral high ground, should Moore win. The [Christian Science Monitor](#) (12/7, Kiefer) says that the resignations of Conyers and Franken "put Democrats on the moral high ground – albeit one with twists and turns. The party has shown itself willing to sacrifice two iconic political figures as the country grapples with a systemic scourge. And, as Democrats are well aware, it puts them in stark contrast to Republicans, who have been divided over how to respond to sexual misconduct allegations against" Moore and Trump.

Writing for [McClatchy](#) (12/7, Murphy), Brian Murphy says, "Democrats are moving swiftly

and forcefully to remove congressional colleagues accused of sexual misconduct and revamp the way settlements are handled," citing the resignations of Conyers and Franken. Murphy adds, "Republicans have proceeded at a slower pace."

In an editorial, the [New York Times](#) (12/7) says, "In demanding Mr. Franken's resignation, the Democratic Party seized an opportunity to atone for its own bad history, including President Bill Clinton's sexual misconduct and, just last month, foot-dragging by leadership on the fate of...Conyers." The Times adds, "Democrats are also drawing a bright moral contrast with the Republican Party and President Trump, who boasted on tape of using his power as 'a star' to sexually assault women." The Times also highlights Trump's and the RNC's support of Moore.

In an editorial, the [Wall Street Journal](#) (12/7) says that Franken denied his accusers' allegations, contended the Ethics Committee would have cleared him, blasted Trump and Moore as having committed far more serious misdeeds than him, yet still resigned. The reality, says the Journal, is that Franken, for political reasons, was forced to resign by fellow Democrats, so they can claim the moral high ground in attacking Trump, Moore, other GOP candidates and their supporters.

Sen. Bernie Sanders said on [CNN's The Lead](#) (12/7), "Al Franken acknowledged that he acted inappropriately. He acknowledged that, he asked forgiveness, and then he ended up resigning. We have a president who on tape, a tape that everybody in America has seen, acknowledged basically that he was assaulting women and well over a dozen women have made that complaint. And what happens to him? He says, 'No. It's fine. It's okay.' I think that's an issue we have to deal with."

Rep. Jackie Speier (D-CA) was asked on [MSNBC's Morning Joe](#) (12/7) how to ensure due process for lawmakers accused by anonymous accusers and whether the "potential for this to have a chilling effect on the hiring of women." Speier said that "if there is an office that refuses to hire women that's a violation of Title VII of the Civil Rights Act there. ... In terms of due process, we're not talking about a criminal act here. We're talking about a violation of the Civil Rights Act." Speier added, "We need an independent authority to do this kind of investigation and review. ... Right now the system we have provides all the protection for the harasser and none for the victim, a 90-day period of time before you can even file a complaint and you have to continue to work in that harasser's office and of course, the funding of settlements comes from the taxpayers which is in many respects just untenable."

Rep. Kathleen Rice (D-NY) said on [CNN's Anderson Cooper 360](#) (12/7), "I don't think the American public is going to be too surprised if there are more revelations about people here in Washington as there will continue to be across the country in various different businesses. The reason why it's so important for us to have a national conversation about this now is we can talk about all the famous people in Hollywood or the politicians in Washington but how many women, and men, are there across this country in everyday life, everyday people who are being harassed in the workplace who have to go every day to a hostile workplace and they have no recourse and no voice? That has got to stop. This is what I hope is going to be the beginning of a national conversation to address everyone who has been victimized by this."

Marcus Questions "Whether Justice Was Done" With Franken's Resignation. In her [Washington Post](#) (12/7) column, Ruth Marcus says "that Democrats are better off with" Franken having resigned. However, Marcus questions "whether justice was done." Marcus says that Franken muddled "Democrats' case against alleged groper President Trump and alleged child molester Roy Moore. Franken paid not only for their sins but also for the alleged behavior of Bill Clinton two decades ago. Democrats underreacted then and consequently were impelled to overreact now. Or, at least, act quickly. I don't know where I would ultimately come down on the propriety of Franken's continued service in the Senate because I don't have a full grasp of the facts. Do you? Did his colleagues?"

In her [New York Times](#) (12/7) column, Michelle Goldberg discusses Franken's resignation, and adds that Trump "has been accused of sexual assault or harassment by over a dozen women, but has faced few consequences. His administration is hostile to sexual harassment victims; in March, for example, he reversed a 2014 Obama administration rule that made it harder for federal contractors to keep sexual harassment and discrimination cases secret." Goldberg adds, "So while the current frenzy to expose sexual harassers is, in large part, a reaction to the trauma of Trump's election, it has not yet touched Trump himself."

In an editorial, [USA Today](#) (12/7) says that while Franken resigned, "lopping off a few convenient heads will not foster lasting change. ... If Congress is going to change the culture that has allowed harassment to flourish across the country, it needs to keep its eye on the most egregious cases – those where a power imbalance has allowed men to prey on women who feel

powerless to do anything about it.”

Media Analyses: Franken Exit Boosts GOP's Hopes Of Flipping Seat Next Year. The [AP](#) (12/7, Potter, Potter, Beaumont) reports that Franken's "departure is a headache for Democrats, exposing another seat in a [2018] midterm election that already had them defending two dozen incumbents. Republicans are eager to recapture a seat that Franken won in 2008 by a tiny margin and only after a monthslong recount. They're also hoping the sexual harassment scandal that engulfed Franken will saddle Democrats with enough baggage to help Republicans break through in 2018."

The [Washington Times](#) (12/7, Persons) reports, "The Cook Political Report changed its rating for Minnesota's Senate race to 'tossup' in the wake of...Franken's resignation." Writing for [Roll Call](#) (12/7, Gonzales), Nathan Gonzales said that Franken's "resignation puts another Democratic seat into the 2018 mix, but it's still unclear whether his departure provides Republicans with a legitimate takeover opportunity." Gonzales added that "we don't know whom Democratic-Farmer-Labor Gov. Mark Dayton will appoint to succeed Franken, 'if that person would seek election to fill the remainder of the term, and who the eventual GOP nominee will be. ... We'll add the seat to the 2018 class as Likely Democratic until some of those outstanding questions have answers.'"

On its website, [NBC News](#) (12/7) reported that with Franken's seat to be on the ballot in 2018, in the form of a special election, Republicans are "now on the hunt for a top-tier candidate in a politically competitive state where President Donald Trump lost by less than 2 percentage points last year. The unexpected opportunity could be a 'total game-changer in terms of control of the Senate,' said Republican strategist Alex Conant, a Minnesota native who worked in communications roles for the Republican National Committee and former Minnesota Gov. Tim Pawlenty's 2012 presidential campaign. 'If,' he added, 'we field a strong candidate.'"

In an online analysis, [CNN](#) (12/7, Cillizza, Bradner) reported that Franken's exit "creates a special election to fill his seat in 2018 – a race where Republicans will have at least a fighting chance of a pickup, depending on how candidate recruitment shakes out." The [Wall Street Journal](#) (12/7, Hook) reports that Dayton on Thursday said that he'd decide on a successor to Franken "in the next couple of days." The person Dayton appoints would face a special election in November of next year to serve out the final two years of Franken's term, which ends in January 2021. The Journal says that Lt. Gov. Tina Smith (D) is viewed as a likely choice.

Editorial Wrap-Up

New York Times.

"What Congress Can Learn From Al Franken." In an editorial, the [New York Times](#) (12/7) says, "In demanding [Sen. Al] Franken's resignation, the Democratic Party seized an opportunity to atone for its own bad history, including President Bill Clinton's sexual misconduct and, just last month, foot-dragging by leadership on the fate of Representative John Conyers Jr." The Times adds, "Democrats are also drawing a bright moral contrast with the Republican Party and President Trump, who boasted on tape of using his power as 'a star' to sexually assault women." The Times also highlights President Trump's and the RNC's support of Alabama Republican Senate candidate Roy Moore.

"The Trump Administration's Coal Bailout." A [New York Times](#) (12/7) editorial argues that Energy Secretary Perry's proposal to subsidize power plants "amounts to a devious and reckless attempt to prop up coal-fired plants." The Times says research suggests the proposal "could add around \$11 billion a year to the cost of electricity. ... Yet it would do little to improve the electrical grid." It further asserts that the proposal uses blackouts and electrical reliability "as a ruse to prop up its favored fossil fuel and stick ratepayers with the bill."

Washington Post.

"An Unnamed American Remains In Custody With No Lawyer. His Jailer Is The US Military." The [Washington Post](#) (12/7) editorializes that the US government should inform the American citizen believed to be an Islamic State fighter and detained by the Defense Department in early September of his right to habeas corpus, and allow him access to the judicial system as the constitution guarantees. The Post says the government has been holding the man in custody for nearly three months while it "decides whether the case against him would be strong enough to win a conviction in US criminal court," but otherwise not "making any case for why this delay is necessary or constitutional." Meanwhile, the Justice Department has said the ACLU cannot represent the man, who remains anonymous. Yet this is permitting the government to "effectively

block a prisoner's access to the justice system by keeping his identity secret."

"Al Franken's Departure Is A Welcome Sign." In an editorial, the [Washington Post](#) (12/7) says, "As with the departure of [Rep. John] Conyers, [Sen. Al] Franken's choice to leave Congress sends an important message that even powerful men can be held accountable for their misconduct. It's disappointing that the senator, who appears to recognize the power of this cultural moment, chose to dwell on his accomplishments during his resignation speech rather than apologize."

"Barbara Comstock Offers A Realistic Lifeline For Metro." The [Washington Post](#) (12/7) editorializes that Rep. Barbara Comstock (R-VA) has proposed legislation that might contain "the last, best hope to rescue Metro." The goal of the legislation is "to mandate a massive systemic overhaul that would establish a temporary Metro reform board, replacing the bloated existing one and stripping it of elected officials." The Post opines that the bill "is a clear message to Republicans, who need convincing, that the Washington area's transit system is important and needs additional money."

Wall Street Journal.

"Jerry Brown's Pension Epiphany." The [Wall Street Journal](#) (12/7) editorializes that California Gov. Jerry Brown's intervention in a state Supreme Court case concerning his 2012 pension reforms and their constitutionality is noteworthy. The reforms limit pension spiking and have been challenged by unions.

"Al Franken's Non-Sequitur." In an editorial, the [Wall Street Journal](#) (12/7) says that Sen. Al Franken denied his accusers' allegations, contended the Ethics Committee would have cleared him, blasted President Trump and Alabama Republican Senate candidate Roy Moore as having committed far more serious misdeeds than him, yet still resigned. The reality, says the Journal, is that Franken, for political reasons, was forced to resign by fellow Democrats, so they can claim the moral high ground in attacking Trump, Moore, other GOP candidates and their supporters.

"Merkel's Not-So-Grand Coalition." In an editorial, the [Wall Street Journal](#) (12/7) criticizes German Chancellor Angela Merkel's proposal to form a grand coalition with the center-left Social Democrat Party (SPD) rather than hold a new election or form a minority government. The Journal questions the proposal given the failure of Merkel's previous attempt at forming a coalition with center-left parties and voters' disapproval of the SPD in government. It also argues such a coalition could have negative policy consequences by pulling Mrs. Merkel away from promised tax cuts or realistic migration policies, and political consequences because it will send the signal that voter preferences don't matter to leaders.

Big Picture

Headlines From Today's Front Pages.

Wall Street Journal:

[Bitcoin's Wildest Rise: 40% In 40 Hours](#)

[Franken Will Resign Over Allegations Of Sexual Misconduct](#)

[Saudi Arabia's Crown Prince Identified As Buyer Of Record-Breaking Da Vinci](#)

[Jailed For A Text: China's Censors Are Spying On Mobile Chat Groups](#)

New York Times:

[Al Franken To Resign From Senate Amid Harassment Allegations](#)

["It Burns And It Keeps Burning": Scenes From Southern California's Wildfires](#)

[If The GOP Tax Plan Hurts You, Congressmen Say It's Your State's Fault](#)

[Did Trump Kill Off A Two-State Solution? He Says No, Palestinians Say Yes](#)

[James O'Keefe, Practitioner Of The Sting, Has An Ally In Trump](#)

Washington Post:

[As Allegations Grow, Franken Says He'll Quit](#)

[Palestinians, Israeli Troops Clash Over US Stance](#)

[Democrats Targeting Franken Set Sights On Trump, Moore](#)

[It's A Bitcoin Frenzy. But As Value Soars, So Do Doubts.](#)

[For Black Mississippians, Trump's Visit Stirs Anger](#)

[Danger Is 'Extreme' As Wind Propels Fires In Calif.](#)

Financial Times:

[Chaotic Trading Marks New Surge In Bitcoin Price](#)
[GE Cuts 12,000 Jobs In Power Equipment Division](#)
[Martin Schulz Calls For 'United States Of Europe'](#)

Washington Times:

[Obama-Led Intel Fiasco Paved Way For Russian Subversion](#)
[Funny Business: Comedians Mocking Liberal Leaders Get Scant Play From Trump-Ridiculing Media](#)
[FBI Director Refuses To Give Congress Information About Agent In Clinton Investigation](#)
[Unlimited Powers Result In Secret Investigation That Invades Privacy Of Wisconsin Republicans](#)
[On Rubio-Lee Amendment, Republicans Missed Chance To Stem 'Baby Bust'](#)
[Tel Aviv Residents On U.S. Embassy Move: Let Jerusalem Have It](#)

Story Lineup From Last Night's Network News:

ABC: California Wildfires; Al Franken Resigns; New Mexico High School Shooting; Russia Meddling Investigation; Federal Budget-WH Meeting; Trump Israel Announcement-Middle East; South Carolina-Police Violence Trial; Michigan-Traffic Accidents; Flu Season; Da Vinci Painting Auction.

CBS: California Wildfires; Al Franken Resigns; USA Gymnastics Sex Abuse; South Carolina-Police Violence Trial; New Mexico High School Shooting; Terrorism Warning-Laptop Bomb; FBI-Trump Comment Response; GE-Corporate Restructuring; WH-WWII Memorial; Trump Israel Announcement-Middle East; Safest Cars And SUVs; American Musician.

NBC: California Wildfires; New Mexico High School Shooting; Al Franken Resigns; Federal Budget-WH Meeting; South Carolina-Police Violence Trial; Trump Israel Announcement-Middle East; BitCoin Boom; Winter Olympics-US Participation Questioned; Australia-Same Sex Marriage.

Network TV At A Glance:

California Wildfires – 18 minutes, 40 seconds
Al Franken Resigns – 7 minutes, 15 seconds
South Carolina-Police Violence Trial – 4 minutes, 20 seconds
Trump Israel Announcement-Middle East – 3 minutes, 40 seconds
New Mexico High School Shooting – 2 minutes, 40 seconds

Story Lineup From This Morning's Radio News Broadcasts:

ABC: California Wildfires; Winter Weather; Congress-Resignations; New Mexico High School Shooting.

CBS: California Wildfires; Congress-Resignations; Federal Budget-WH Meeting; USA Gymnastics Sex Abuse; New Mexico High School Shooting.

FOX: California Wildfires; Congress-Resignations; Federal Budget-WH Meeting.

NPR: California Wildfires; Congress-Resignations; Mississippi-Civil Rights Museum; Trump Israel Announcement-Middle East.

Washington Schedule

Today's Events In Washington.**White House:**

PRESIDENT TRUMP — Has lunch with Vice President Mike Pence; meets with Secretary of Defense James Mattis; participates in a Make America Great Again Rally.

VICE PRESIDENT PENCE — No public schedule announced.

US Senate: Deadline for new funding deal to avert federal govt shutdown – Funding for the federal govt due to expire, unless extended, following the passage of 'H.R. 601, the Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017' – a short-term continuing resolution, providing a 10-week extension in funding – through both chambers of Congress in September * Last week, a further short-term CR was introduced in the House of Representatives which would extend funding for a further two weeks Location: TBD <https://twitter.com/WhiteHouse>

US House: 9:00 AM House expected to vote on Community Institution Mortgage Relief Act – House of Representatives meets for legislative business, with agenda expected to include completion of consideration of 'H.R. 3971 – Community Institution Mortgage Relief Act of 2017' Location: Washington, DC <http://www.house.gov/>

9:00 AM House Energy subcommittee hearing on the role of the DOE in energy sector

cybersecurity – Oversight and Investigations Subcommittee hearing on 'Examining the Role of the Department of Energy in Energy Sector Cybersecurity', with testimony from Assistant Secretary of Energy for Electricity Delivery and Energy Reliability Bruce Walker Location: Rayburn House Office Building, Rm 2123, Washington, DC <http://energycommerce.house.gov/>
<https://twitter.com/HouseCommerce>

Deadline for new funding deal to avert federal govt shutdown – Funding for the federal govt due to expire, unless extended, following the passage of 'H.R. 601, the Continuing Appropriations Act, 2018 and Supplemental Appropriations for Disaster Relief Requirements Act, 2017' – a short-term continuing resolution, providing a 10-week extension in funding – through both chambers of Congress in September * Last week, a further short-term CR was introduced in the House of Representatives which would extend funding for a further two weeks Location: TBD
<https://twitter.com/WhiteHouse>

Other: 8:00 AM International LGBTQ Leaders Conference continues – International LGBTQ Leaders Conference, themed 'Representation is Power', day two, with speakers including Democratic Reps. Dan Kildee and Mark Takano and 'Women Out to Win' reception with Democratic Sen. Tammy Baldwin and Virginia Delegate-Elect Danica Roem Location: Washington Hilton, 1919 Connecticut Ave NW, Washington, DC www.lgbtleaders.org
<https://twitter.com/VictoryFund>

10:00 AM Attorney General Jeff Sessions hosts roundtable on drug policy with Heritage Foundation representatives Location: Department of Justice, 950 Pennsylvania Ave, Washington, DC www.justice.gov <https://twitter.com/TheJusticeDept>

10:00 AM DNC Unity Reform Commission final meeting – Democratic National Committee Unity Reform Commission final meeting, with attendees including Commission Chair Jen O'Malley Dillon and Vice Chair Larry Cohen. The commission – made up of 21 members selected by 2016 presidential candidates Hillary Clinton and Sen. Bernie Sanders and DNC Chair Tom Perez – will recommend improvements to ensure the presidential nomination process is accessible, transparent, and inclusive Location: Washington Marriott Wardman Park, 2660 Woodley Rd NW, Washington, DC <http://www.democrats.org/> <https://twitter.com/TheDemocrats>

12:00 PM Conservative Women's Network hosts discussion with Republican Rep. Mark Meadows Location: Heritage Foundation, 214 Massachusetts Ave NW, Washington, DC www.cblpi.org <https://twitter.com/LuceLadies>

Last Laughs

Late Night Political Humor.

Stephen Colbert: "Yesterday, we finally got congressional testimony from Donald Trump Jr. His grilling by the House Intelligence Committee lasted roughly eight hours, making it the first time a Trump has put in a full work day."

Trevor Noah: "Regardless of how you feel about Al Franken, he does have a point. The Democrats are draining their swamp, while Republicans are installing the jungle gym in Roy Moore's new office."

Trevor Noah: "If Al Franken was a Republican, for better or worse, he would still have his job. He was just in the wrong party, that's all, like a dude who shows up at a wedding wearing a toga. Wrong party."

Jimmy Fallon: "After Franken resigned, another senator is expected to resign tomorrow. I'm not basing this on any news. I'm just assuming there will be another senator who has to resign."

Conan O'Brien: "Vladimir Putin announced he's running for re-election as President of Russia. Putin's campaign slogan is, 'I made America great again.'"

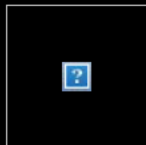
Conan O'Brien: "Ireland will be collecting \$15 billion from Apple in a settlement from back taxes. Ireland will receive the money on Friday, and Guinness will have it all by Monday."

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[Health official: No measles or mumps outbreak in NMI](#)

[Guam might sue over Trump wall funding](#)

[Bryan Heads To Washington Thursday, Will Testify Before Congress Feb. 26](#)

[FBI, VIPD, Debunk Audio With Terror Threat Against USVI As Fake. Listen To It Here.](#)

[Hole found in ship's hull in American Samoa](#)

[Susupe Lake now a wildlife park](#)

Bureau of Land Management

[Thousands of protests submitted against Chaco oil sale](#)

[Sterilization project blocked; BLM must relocate Ore. herd](#)

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[A Wild Success](#)

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[Massive bill with local impact near approval](#)

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[Environmental Groups Are Calling On Trump To Ditch Plans To Expand Offshore Drilling](#)

[Conservation Groups Seek to Block Atlantic Seismic Activity](#)

[Conservation groups file motion for injunction to block start of seismic blasting](#)

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[South Carolina Isn't Happy with Trump's Atlantic Oil Search](#)

Bureau of Reclamation

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[Sen. Feinstein, Reps. Costa, Cox Send Letter Urging Additional Water for California Central Valley Farmers Following High Snowfall](#)

[Arizona Congratulates Itself on Colorado River Drought Plan, Which Still Isn't Done](#)

[State agencies say Valley is prepared for a California megastorm](#)

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[West Side Gets 35%, Friant 100%, Salmon 100% of Water Allocation](#)

[Bureau of Reclamation makes initial 35 percent water allocation](#)

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Fish and Wildlife Service

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National Park Service

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Top National News

[Coast Guard Lieutenant Arrested in Alleged Domestic Terror Plot](#)

[White House Panel Will Study Whether Climate Change Is a National Security Threat. It Includes a Climate Denialist.](#)

[The U.S. and China Fear Their Leaders Will Cave In on Trade Battle](#)

DOI News

[Energy execs spend big at Trump hotel 'Disneyland'](#)

E&E News (Brown, Northey)

The Trump International Hotel rolled out the red carpet last summer for the two coal companies that have done the most to curry favor with the owner of the Washington, D.C., luxury destination: President Trump. Murray Energy Corp. CEO Bob Murray and Heath Lovell, a top spokesman for magnate Joe Craft's Alliance Resource Partners LP, were "VIP Arrivals" for one-night stays on June 20, 2018, according to a list obtained by The Washington Post.

[How growing up in the West shaped Bernhardt](#)

Greenwire (Doyle, Yachnin)

David L. Bernhardt grew up in the raw West, a region that shaped and sometimes seared him. Raised in Rifle, Colo., a town of several thousand residents at the time, Bernhardt recalls hiking, hunting, skiing and horseback riding on the federal lands that dominate surrounding Garfield County. He recalls, as well, the region's bleaker economic turns when energy booms collapsed. "Not everything in Rifle was sunshine," Bernhardt told the Senate Energy and Natural Resources Committee in 2017.

[Interior Officials May Have Broken Ethics Rule, Group Says](#)

Bloomberg (Allison)

Six senior Interior Department officials violated President Donald Trump's ethics pledge by dealing with former employers and clients while in office, according to a complaint filed by the Campaign Legal Center. The complaint names three officials who participated in meetings with organizations they worked for or represented before joining the government. Under rules issued by Trump in January 2017, administration appointees are barred from participating for two years in particular matters with former employers or clients.

[Interior Department Is Filled With Ex-Lobbyists Who Are Cozy with Their Former Employers, New Ethics Complaint Shows](#)

Intercept (Tobias, Coleman)

Only a few short weeks after President Donald Trump nominated David Bernhardt, a former oil and agriculture industry lobbyist, to run the Interior Department, the agency is facing a slew of new allegations that top officials violated federal ethics rules by keeping cozy ties to their former employers. A lengthy ethics complaint filed Wednesday by the Campaign Legal Center, a Washington, D.C.-based watchdog group, outlines "a disturbing pattern of misconduct" at the scandal-plagued Interior Department, including meetings that violate the White House's own ethical pledge and good governance standards.

[Watchdogs seek probe of potential broken ethics pledges](#)

Greenwire (Doyle)

A private watchdog group today formally asked the Interior Department's Office of Inspector General to investigate potential ethics violations by six political appointees.

[Interior officials accused of violating ethics pledge](#)

Hill (Cama)

A government ethics group is accusing six political officials at the Interior Department of violating the Trump administration's ethics pledge. The Campaign Legal Center sent a formal complaint to Interior's Office of Inspector General, asking it to investigate those officials' compliance with provisions of the pledge all political appointees sign, including cooling-off periods for working on matters involving former employers, restrictions on meeting with former employers or clients, and restrictions on dealing with matters for which an employee used to lobby.

[New Watchdog Complaint Outlines 'Pattern Of Ethical Misconduct' At Interior Department](#)

Huffington Post (D'Angelo)

A government ethics watchdog has called for the Interior Department's Office of Inspector General to launch a formal investigation into violations of federal ethics rules by six high-ranking agency officials who maintained close ties to former employers. The 19-page complaint from the D.C.-based nonpartisan nonprofit Campaign Legal Center, which cites two HuffPost reports, comes two weeks after President Donald Trump nominated David Bernhardt,

Interior's acting secretary and a former oil lobbyist, as the department's permanent chief. He would replace Ryan Zinke, who resigned in January under a cloud of ethics scandals.

'Concerned' hunters slam Interior's record on big game

Greenwire (Brugger)

A year ago, hunting and fishing groups lauded the Interior Department's pledge to protect elk, mule deer and pronghorn.

Bureau of Indian Affairs

Udall, Heinrich Secure Strong Investments For New Mexico In Bipartisan Government Funding Agreement

Los Alamos Daily Post (Clark)

U.S. Sen. Tom Udall, a senior member of the Senate Appropriations Committee, and U.S. Sen. Martin Heinrich joined the Senate in voting 83-16 to pass a bipartisan agreement to fund the government through September 2019, avert another partial government shutdown, and invest in essential New Mexico priorities. The U.S. House of Representatives has approved the bill, and the president has signed it into law.

Potential CN candidates face eligibility challenges

Tahlequah Daily Press (Crawford)

The Cherokee Nation general election is slated for June 1, and the Cherokee Nation Election Commission received candidacy filings from 36 individuals. Five of the individuals who filed had their eligibility challenged last week during a special meeting of the CN Election Commission, leaving some people curious as to what laws may prevent someone from throwing their hat into the ring. A hearing has also been set for the five potential candidates Thursday, as the EC will determine whether the individuals' challenges constitute ineligibility.

Federal agency denies Wampanoag tribe's allegations

Cape Cod Times (Stening)

The Department of the Interior has responded to the Mashpee Wampanoag Tribe's lawsuit challenging its Sept. 7 decision, denying allegations that the federal agency contorted and ignored facts to engineer a decision against the tribe. "Except as expressly admitted, all allegations are denied," department attorney Sara E. Costello wrote in the Feb. 19 filing. The tribe's suit disputes the Department of the Interior's decision to reverse its 2015 finding that the tribe satisfied a definition of "Indian" required under the 1934 Indian Reorganization Act to qualify it for trust lands. Trust status is a designation in which the federal government holds title to tribal property, exempting it from state and local regulations.

Office of Insular and International Affairs

Interior's Domenech visits Chuuk to commemorate 75th anniversary of

Operation Hailstone

Marianas Variety

Doug Domenech, U.S. Department of the Interior assistant secretary, insular and international affairs, was in Chuuk, Federated States of Micronesia this week with a high-level U.S. delegation from Washington, D.C. and U.S. Indo-Pacific Command. They took part in commemorating the 75th anniversary of Operation Hailstone which took place during World War II in the Pacific.

Guam, NMI under Tropical Storm Watch

Marianas Variety

Tropical Storm Wutip continues to strengthen Thursday morning in Chuuk State. It is beginning to make its slow turn to the west-northwest and will pass near or just south of Puluwat later today, Thursday, and near Satawal overnight, likely as a typhoon. Folks on these and nearby islands should have preparations complete and ready to feel the force of severe tropical storm to category 1 typhoon conditions (Puluwat and Satawal) Thursday through Friday morning.

NMI, Guam urged to prepare for bad weather this weekend

Saipan Tribune

The U.S. Coast Guard is urging the public to prepare for the onset of heavy weather early Friday in Guam and the CNMI. Tropical Storm Wutip—formerly Tropical Depression 02W—is expected to generate sustained winds approaching 35 knots (40 mph) in vicinity of Guam and the Commonwealth.

Health official: No measles or mumps outbreak in NMI

Marianas Variety

The Commonwealth Healthcare Corp. has issued an advisory, informing the public of the availability of the MMR vaccine. Sasamoto encouraged the people to get the MMR vaccine and have their children up to date with their immunizations. “For those traveling to a measles-infected area, we encourage getting the MMR vaccine 28 days prior to departure, with a minimum of 14 days prior to departure, to give the vaccine time to take effect,” the CHCC public advisory stated.

Guam might sue over Trump wall funding

Guam Daily Post (Kerrigan, O'Connor)

The Office of the Attorney General is “considering its legal options” after learning that President Donald Trump's emergency declaration may divert \$750 million in Department of Defense construction funds intended for military buildup projects on Guam. The AG issued that statement on Twitter after Guam Del. Michael San Nicolas announced in a press release Wednesday morning that he “has received information indicating (that) Trump's emergency declaration would negatively impact the Guam military buildup in a substantial way.”

[Bryan Heads To Washington Thursday, Will Testify Before Congress Feb. 26](#)

Virgin Islands Consortium

Governor Albert Bryan is set to travel Thursday to Washington D.C. for a week of meetings with senior White House administration officials and members of Congress, Government House announced via release late Wednesday. Mr. Bryan will also be attending the annual National Governor's Association (N.G.A.) Winter Meeting, and will testify before Congress during the trip.

[FBI, VIPD, Debunk Audio With Terror Threat Against USVI As Fake. Listen To It Here.](#)

Virgin Islands Consortium

A audio recording making the rounds on social media, including Facebook and WhatsApp, alleging that a terror attack — including random bombs blowing up around the U.S. Virgin Islands — has surfaced in recent days, causing a scare among community members. The recording was also heard by Federal Bureau of Investigations and Virgin Islands Police Department officials, all of whom debunked the audio, which was also sent to The Consortium via Facebook, as fake in a statement.

[Hole found in ship's hull in American Samoa](#)

Radio New Zealand

A tiny hole has been found in the hull of a ferry in American Samoa that started to sink while docked in Fagatogo. A port engineer noticed the MV Sili listing last Saturday and discovered it was taking on water. The port's deputy director, Christopher King, said an underwater inspection of the hull revealed the hole after the water was pumped out of the vessel. Mr King said the hole has been patched and a thorough inspection of the inside of the ferry will now be conducted to determine what needs to be replaced. He said the engines, electrical systems and other apparatus in the engine room were submerged.

[Susupe Lake now a wildlife park](#)

Saipan Tribune (Perez)

Lake Susupe is now a wildlife park after Gov. Ralph DLG Torres signed into law a bill that designates the landmark and its surrounding wetland as a natural habitat to some species of birds. House Bill 20-13, which was one of three bills Torres enacted before leaving for Washington, D.C. on Tuesday, is now Public Law 20-91. All three bills—passed by the House and the Senate in the previous Legislature—can still be signed into law by the governor since they've already been transmitted to his office.

Bureau of Land Management

[Thousands of protests submitted against Chaco oil sale](#)

Associated Press

Thousands of protests have been lodged with U.S. land managers in opposition of next month's oil and natural gas lease sale despite a decision to remove from the offering several parcels near a national park in northwestern New Mexico. Environmentalists said they turned in 33,000 protests to the U.S. Bureau of Land Management on Wednesday, the last day of the protest period. It will be up to the federal agency to review the information ahead of the March 28 sale. The agency earlier this month deferred nine parcels that were within 10 miles of Chaco Culture National Historical Park.

Sterilization project blocked; BLM must relocate Ore. herd

Greenwire (Streater)

The Bureau of Land Management wants to adopt or sell hundreds of wild horses it rounded up in Oregon last fall as part of a sterilization research project the bureau abandoned after animal rights groups challenged it in federal court.

Wild horse gather halted

Mason Valley News

The Bureau of Land Management's Pine Nut Mountains wild horse gather ended Feb. 19. Nearly 350 wild horses were gathered during the gather. The BLM gathered and removed 340 excess wild horses from public and private lands in and outside the Pine Nut Mountains Herd Management Area in western Nevada. The gather was suspended due to weather. It may be resumed later this year. Wild horses removed from the range were transported to the Palomino Valley Off-Range Wild Horse and Burro Corrals in Reno to be readied for the BLM's wild horse and burro adoption and sale program. Wild horses not adopted or sold to good homes will be placed in long-term pastures where they will be humanely cared for and retain their "wild" status and protection under the 1971 Wild Free-Roaming Horses and Burros Act.

A Wild Success

Wickenburg Sun (Hankins)

An unlikely pair – Sarina Jahn, is a petite, young Swiss miss with long, strawberry-blond hair, and Raven is a tall, black mustang with flowing locks of his own. It must have been fate that brought her over the ocean, and him in from the wilds of the American West. Now, they are trusting friends. He nuzzles her and steps curiously forward to sniff a handful of brochures she holds on Saturday during the Bureau of Land Management's Wild Horse and Burro Adoption at Everett Bowman Rodeo Grounds. She tells him he can't have them, and he accepts her answer. Jahn remembers the first day she saw Raven. She had come to America to exercise horses, and before long, asked if she could train a mustang. The answer was "yes," but when she saw Raven, her answer was "no."

Feds Lower Grazing Fees for Ranchers on Public Lands

KDRV (TV) (Parfitt)

Ranchers may have reason to rejoice following an announcement from the Bureau of Land Management (BLM) on Wednesday that federal grazing fees have dropped for 2019.

Previously, the grazing fee was set at \$1.41. It has now been lowered to \$1.35 per animal unit month (AUM) for BLM lands and \$1.35 per head month (HM) for lands managed by the U.S. Forest Service (USFS). According to the agency, AUM and HM represent equivalent measures for use of public lands by "by one cow and her calf, one horse, or five sheep or goats for a month."

Wyden says wildfire help on the way

Mail Tribune (Mann)

U.S. Sen. Ron Wyden promised Wednesday that federal help is headed to Southern Oregon to confront our wildfire problems. He said he's shepherded legislation that will stop a long-standing practice of raiding fire prevention coffers to pay for wildfire suppression. "The fire prevention funding got the short end of the stick," he said before about 300 residents who showed up to a town hall at North Medford High. "That will end with a law that will be put into effect in the next couple of months."

Massive bill with local impact near approval

Highland Community News (Folmer)

The U.S. Senate's passage of the massive Natural Resources Management Act last week is big news for the Inland Empire, but it will mean much more than a land exchange in the Santa Ana River Wash to improve environmental protections and expand mining. Senate Bill 47, introduced by Sen. Lisa Murkowski, a Republican from Alaska, combines more than 100 pieces of legislation including the land-exchange bill co-sponsored by Rep. Paul Cook, a Republican from Apple Valley, and Pete Aguilar, a Democrat from Redlands.

BLM advisory group to meet in Dolores

Durango Herald (Mimiaga)

The Bureau of Land Management will hold a meeting of the Southwest Resource Advisory Council from 9 a.m. to 4 p.m. March 8 at the Dolores Public Lands Center, 29211 CO. 184 in Dolores. The Southwest RAC is made up of partners with diverse backgrounds and interests who provide input and ideas into public lands management. They serve in an advisory capacity concerning the planning and management of BLM lands in the Southwest District. Planned agenda include training for member participation on the Recreation RAC, recreation fee proposals and closeout of the Dominguez-Escalante Advisory Council.

Idaho bill would urge Congress to cut wilderness study areas

Greenwire

State legislation urging Congress to remove hundreds of thousands of acres from being designated as wilderness study areas in Idaho advanced to the full state House yesterday despite concerns it could also end up encouraging Congress to designate more wilderness.

Bureau of Ocean Energy Management

Offshore wind bill reignites revenue sharing debate

Greenwire (Koss)

The long-standing debate over the sharing of offshore energy revenues is getting underway again in the 116th Congress.

Environmental Groups Are Calling On Trump To Ditch Plans To Expand Offshore Drilling

Daily Caller (Pearce)

More than two dozen environmental and conservation groups are calling for the Department of the Interior (DOI) to walk back a commitment to open up “nearly 100 percent of our coasts to oil and gas development.” The National Wildlife Federation and 24 other groups sent a letter to acting Interior Secretary David Bernhardt Monday asking him to reconsider opening up any more territory to offshore drilling in the next five-year plan for the National Outer Continental Shelf Oil and Gas Leasing Program.

Conservation Groups Seek to Block Atlantic Seismic Activity

Maritime Executive

A group of conservation organizations have asked a federal judge to block the start of seismic airgun activities for offshore drilling in the Atlantic Ocean until the case can be fully heard in court. The motion for a preliminary injunction filed in federal court in Charleston contends that the Trump administration’s approval for five companies seismic surveys violates the Marine Mammal Protection Act, the Endangered Species Act and the National Environmental Policy Act. Separately, 16 South Carolina coastal communities and the South Carolina Small Business Chamber of Commerce also filed a lawsuit to prevent seismic activity. That lawsuit has been merged with the one from the conservation groups.

Conservation groups file motion for injunction to block start of seismic blasting

WCSC (TV)

Conservation groups have asked a federal judge to block the start of harmful seismic airgun blasting in the Atlantic Ocean until their case can be heard in court. The injunction request states that the blasting harms marine animals and violates three federal laws including the Marine Mammal Protection Act. Environmental groups named in the lawsuit include Oceana, the Natural Resources Defense Council and the Southern Environmental Law Center. The lawsuit claims the National Marine and Fisheries Service violated the Marine Mammal Protection Act, the Endangered Species Act and the National Environmental Policy Act when it issued permits in November to five companies allowing them to conduct airgun blasting in the Atlantic Ocean.

Whale-saving efforts target oil and gas companies

Cape Cod Times (Bragg)

In an effort to protect endangered whales, conservation groups today filed a motion to stop oil

and gas companies from conducting seismic airgun exploration from Delaware to Florida. "In my expert opinion, the introduction of seismic airgun surveys off the U.S. East Coast represents an existential threat to the North Atlantic right whale, an endangered species that is already in a dangerous state of decline," Scott Kraus, vice-president and senior science adviser for the Anderson Cabot Center for Ocean Life at the New England Aquarium, said in an expert declaration filed with the plaintiffs' motion for a preliminary injunction.

[South Carolina Isn't Happy with Trump's Atlantic Oil Search](#)

Bloomberg (Edwards)

More than half the registered voters in Republican-controlled South Carolina supported Donald Trump in a poll last month, but there's at least one area where state leaders are ditching the president to join rival Democrats: a fight against oil exploration off the Atlantic coast. While no new drilling has been approved in U.S. Atlantic waters, the Interior Department said in 2014 the region may contain 90 billion barrels of oil and 300 trillion cubic feet of gas. The Trump administration, eager to promote new sources of domestic energy, cleared the way in November for an essential first step to future drilling: geologic surveys using sound waves to pinpoint potential oil deposits. Permits could be issued as soon as next month.

Bureau of Reclamation

[Ariz. set to miss U.S. deadline for water plan](#)

Greenwire

Arizona won't have all the pieces of a Colorado River drought plan finished by the federal government's deadline to finalize protections for water used by millions across the West, state water officials said yesterday.

[Senator Hoeven Outlines Land Transfer Process Around Jamestown Reservoir](#)

NewsDakota (Abrahamson)

Senator John Hoeven today hosted a roundtable with Jamestown Reservoir homeowners as well as officials from Jamestown and Stutsman County to go over the transfer process for lots around the Jamestown Reservoir. In December, the President signed Hoeven's legislation to permanently transfer Bureau of Reclamation (BOR) land around the reservoir to the Stutsman County Park Board and the North Dakota Game and Fish and allow homeowners the opportunity to purchase their lots.

[Sen. Feinstein, Reps. Costa, Cox Send Letter Urging Additional Water for California Central Valley Farmers Following High Snowfall](#)

Sierra Sun Times

Senator Dianne Feinstein and Representatives Jim Costa and TJ Cox sent a letter last week to the United States Bureau of Reclamation urging the Bureau to incorporate recent precipitation into the initial water allocations to Central Valley Project (CVP) water contractors given the

high amount of rainfall and snow the region has experienced since the February 1st water forecast. Farmers and ranchers use these allocations to efficiently plan their operations. The need for allocations that reflect real-time water supply realities was one driving factor in the 2016 Water Infrastructure Improvements for the Nation Act provisions which direct the Secretary of the Interior to operate the CVP so it provides contractors with the "maximum quantity of water supplies practicable... as quickly as possible, based on available information."

Arizona Congratulates Itself on Colorado River Drought Plan, Which Still Isn't Done

Phoenix New Times (Whitman)

A muted celebration settled over Arizona's final meeting on its Colorado River drought plan on Tuesday, even though more than a dozen agreements remain unfinished and a federal deadline is less than two weeks away. "I want to sincerely congratulate all the Steering Committee members," said Leslie Meyers, the Phoenix area manager for the Bureau of Reclamation, referring to the 40 or so people who negotiated the Drought Contingency Plan over more than six months of intense talks. "I'm really proud to have been a part of this."

State agencies say Valley is prepared for a California megastorm

KFSN (TV) (Haagenson)

Any prolonged wet weather in California brings concerns about the big one. An Ark storm, an atmospheric river dumping too much water, revives fears of the 1861 Ark Storm that flooded the entire central valley. It's something Ken Austin of the Fresno County Department of Emergency Services tries to anticipate. "We prepare for any disaster and a disaster is anything kind of big and overwhelming," said Ken Austin with Fresno County Department of Emergency Services.

Colorado River cuts cloud central Arizona farmers' future

High Country News (Davis)

The furrows in a 60-acre patch of dirt on Rodney and Tiffany Shedd's Arizona farm still hold cotton scraps from last year's crop. This year, that patch will stay barren for the first time in recent memory, thanks to the decline in Colorado River water for farms across Pinal County, one of America's cotton-growing centers. The farmers' supply was cut because Arizona's growing cities are taking more water than ever. "We will fallow from here to the white tank," said Rodney Shedd, driving past the barren field and pointing toward a water tower nearby.

Feds announce initial Central Valley Project water allocation. Westlands isn't pleased

Fresno Bee (Griswold)

San Joaquin Valley farmers on the east side will be getting their full allocation of San Joaquin River water, while farmers on the west side will be getting only 35 percent to start, according to the 2019 initial water supply allocation released Wednesday by the federal Bureau of Reclamation. The bureau runs the Central Valley Project that delivers irrigation water from the San Joaquin and Sacramento rivers to Valley water districts. While there has been a lot of rain

and snow this winter, Bureau of Reclamation Mid-Pacific Region Director Ernest Conant said the bureau must “act conservatively at this time of year” in issuing the water supply allocation.

West Side Gets 35%, Friant 100%, Salmon 100% of Water Allocation

GV Wire

West-side farmers in Fresno County will receive a 35% water allocation from the Central Valley Project, the Bureau of Reclamation announced Wednesday. Other districts served by the federal water project, however, will receive allocations ranging from 70% to 100%. Friant Division farmers are among those receiving 100% allocations. In addition, 150,000 acre-feet of flood release water from Millerton Lake will be made available to eligible Friant contractors.

Bureau of Reclamation makes initial 35 percent water allocation

Business Journal

The Bureau of Reclamation announced a 35-percent initial water allocation for south-of-Delta Central Valley Project (CVP) agricultural water service contractors. The allocation is based on a conservative estimate on how much water will be available to be delivered to CVP water users and reflects reservoir storage, precipitation, and snowpack in the Central Valley and Sierra Nevada. The announcement was met with some disappointment.

City searching for volunteers to help clean up Twin Buttes Reservoir on March 2

San Angelo Standard-Times

The City of San Angelo is looking for volunteers to pick up trash at Twin Buttes Reservoir. A clean up is being organized by the Concho Bass Club, Texas Backcountry Hunters and Anglers and Texas Parks and Wildlife. It will go from 10 a.m. to 1 p.m. Saturday, March, 2, 2019.

Fish and Wildlife Service

Bat census appears positive say researchers

WGEM (TV)

Over 50 bat conservationists are going over the numbers after helping out with Missouri bat census of the Indiana bat in Hannibal on Wednesday. Hundreds of thousands of bats hibernate at the Sodalis Nature Preserve in Hannibal. Researchers took photographs to measure the population today. Biologist Shauna Marquardt of the U.S. Fish and Wildlife Service said their initial impression of this years census is positive.

Groups Challenge Law Allowing Wyoming To Stage Grizzly Bear Hunts

National Parks Traveler (Repanshek)

Two days after word broke that Wyoming Governor Mark Gordon had signed into law legislation calling for a grizzly bear hunt in the state, conservation groups filed notice to sue the state. “This is an egregious attempt to ignore federal law protecting Yellowstone’s iconic grizzly bears,” said Bonnie Rice, senior representative with Sierra Club’s Our Wild America campaign, two days after Traveler reported the bill signing. “We will not idly stand by while Wyoming moves to illegally take authority for managing grizzly bears and subject them to trophy hunts.”

[Inside the Fight Against the Growing Cactus Black Market](#)

Pacific Standard (McGivney)

When most people drive through the Cactus Forest in Saguaro National Park, their gazes are fixed skyward. Towering saguaros fill the view on either side of the road, rising 40, even 60 feet high, their human-like arms outstretched. But on a recent December afternoon, Ray O’Neil was focused on the ground. He was looking for holes. As the park’s chief ranger, O’Neil is on constant alert for an unusual menace: cactus poachers. Saguaros aren’t just beautiful to look at; they also fetch a hefty price, up to \$100 a foot, on the black market, where they are enormously popular with landscapers.

[A Little Herb Gets Caught In A Big Fight Over the Endangered Species Act](#)

Wyoming Public Media (Hegy)

The San Francisco Mountains in southwestern Utah were once home to one of the richest silver mines in the world. When it comes to mining today, they stand mostly quiet — for now — with only a handful of rock mines operating in the area. But among the abandoned shafts and white limestone cliffs, a relatively recent discovery is growing — the tiny Ostler’s pepper plant. Discovered in 1980 by two Utah-based scientists, this is the only place on earth where the purple and white flowering herb is found.

[Two Florida panthers found dead days apart](#)

New York Daily News (Bhulai)

Two endangered Florida panthers have been found dead days apart. A 2-year-old male was found dead on Golden Gate Blvd located in Collier County on Tuesday after being hit by a vehicle. Three days later, the body of a 12-year-old female was found about 50 miles away in Big Cypress National Preserve. Her cause of death remains unknown. “The previous Florida panther population estimate was 100 to 180 adult and sub-adult panthers in 2014,” stated an article posted by U.S Fish & Wildlife Service.

[New conservation fund announced for Great Miami River](#)

Daily Advocate (Shaner)

A new local conservation fund will mean some big love for the Great Miami River and its tributaries. The Miami Conservancy District, United States Fish & Wildlife Service’s Partners for Wildlife program and Ohio River Foundation are partnering on a conservation fund specifically dedicated to restoration projects for an Ohio River sub-watershed in Ohio. Together, MCD and PFW are providing approximately \$250,000 in seed money for the first

five years. ORF is administering the fund and co-managing the projects.

Former WDFW director gets new position with U.S. Fish and Wildlife

Spokesman-Review (Francovich)

James Unsworth, the former director of the Washington Department of Fish and Wildlife, has been named assistant regional director for science applications in the Pacific Region of the U.S. Fish and Wildlife Service. Unsworth succeeds Dr. Stephen Zylstra, who retired from federal service. Unsworth was the WDFW director from 2015 until 2018. He had a tumultuous tenure at WDFW, one marked by workplace scandals and controversy over the handling of bear and wolf hunting practices.

Crucial Vigneto permit suspended again, following lawsuit filing

Arizona Daily Star (Bregel)

For the second time in three years, a critical permit for the controversial Villages at Vigneto development in Benson has been suspended. The U.S. Army Corps of Engineers last week suspended the 28,000-home project's Clean Water Act permit. The move comes less than two weeks after environmentalists filed a lawsuit alleging the Army Corps' November decision to approve the permit violated the Endangered Species Act and National Environmental Policy Act.

National Park Service

Sen. Warner hopes to fund \$12 billion in National Parks maintenance

WSET (TV) (Langlitz)

Senator Mark Warner along with other lawmakers from across the country reintroduced a bipartisan bill that would address the multi-billion dollar maintenance backlog for the National Parks Service. The \$12 billion backlog has delayed visitor center upkeep, rest stops, trails, campgrounds and transportation infrastructure that is typically maintained by the NPS in Virginia and elsewhere.

Washington's backward funding: How national parks are encouraged to defer maintenance

Hill (Striker)

While the government shutdown dragged on last month, the National Park Service made headlines for our decision to use unspent fee revenues to fund basic operations at many national parks. Some questioned the use of such revenues to operate parks, raising an important yet often overlooked question: How should parks use fees? As the superintendent of Denali National Park and someone with three decades experience working for the National Park Service, I have some idea. I was there when Congress changed the law to allow national parks to retain fees. While I am not a lawyer, and I speak only for myself, I disagree with the political uproar over our decision to keep parks open using fee revenues.

[Say Hello to America's Newest National Park](#)

Outside (Knepper)

Indiana Dunes is no stranger to homemade signs. Folks along the south shore of Lake Michigan have been hoisting Save the Dunes placards since the early 1900s. But last Friday, a new sign was made. It was cardboard, with Park written in Sharpie. A ranger held it for a photo at the entrance to the Indiana Dunes National Lakeshore, so that it read Indiana Dunes National Park. It was the end of a century-long battle that, in true Midwest fashion, concluded modestly. No big to-do, just a few smiling faces and that sign.

[Indiana Dunes Is its State's First National Park](#)

Backpacker (Gates)

Indiana just got its first national park, thanks to a provision elevating Indiana Dunes National Lakeshore tucked inside the spending bill that the president signed last week. The official Indiana Dunes Twitter account posted a photo on February 15 showing a handful of uniformed staff posing next to the area's welcome sign, with a piece of cardboard reading "park" obscuring the word "Lakeshore."

[Check out America's newest national park](#)

Mother Nature Network (Kirkpatrick)

After years of campaigning, Indiana Dunes National Lakeshore is officially the 61st national park and the state's first national park. "I am heartened that because of the support of our U.S. Senators, the entire Indiana Congressional delegation and numerous Northwest Indiana organizations, we have successfully titled the first National Park in our state," Democratic U.S. Rep. Pete Visclosky said in a statement. "This action provides our shoreline with the recognition it deserves, and I hope further builds momentum to improve open and public access to all of our region's environmental wonders." The designation change was included in the Fiscal Year 2019 Omnibus Appropriations legislation, the same legislation that included a little more than \$1 billion in funding for fencing along the border with Mexico.

[Indiana Dunes gets a promotion](#)

Greenwire (Hotakainen)

Stephen Mather, the first director of the National Park Service, left impressed in the fall of 1916 when he investigated a tract of land on the southern shore of Lake Michigan as a possible site for one of the first national parks.

[Sunlight makes this waterfall look like lava — and the photos are mesmerizing](#)

Washington Post (Katie Mettler)

From December to April in Yosemite National Park, chilly water from melting mountain snow streams toward the eastern edge of El Capitan and forms what's known as Horsetail Falls. The cascade is predictably picturesque within the greater grandeur of one of the country's most stunning national parks. But it becomes truly phenomenal for just a few days in February,

when a trick of the light transforms the falling water into a flow of illusory lava.

Snowmobiler rescued after breaking leg in crash near West Yellowstone

KPAX (TV) (Thorsell)

A Minnesota man who crashed his snowmobile and broke his leg was rescued Tuesday afternoon north of West Yellowstone. West Yellowstone Police Department dispatch received a 911 call at around 2 p.m. reporting that a 44-year-old Minnesota man was injured in the Cabin Creek area 12 miles north of West Yellowstone. Rescuers from the Sheriff's Search and Rescue in West Yellowstone, Yellowstone National Park, National Forest Service and a helicopter from Reach Air Medical Services responded.

Grand Canyon National Park kicks off 100th anniversary Feb. 26 with free entry, visitor activities

Grand Canyon News (Ford)

Theodore Roosevelt, a New York City statesman who harbored a longstanding love affair with the American West, made his way to the Grand Canyon for the first time in 1903. His visit would mark the beginning of 16 years of wrangling to make the natural wonder a national park, a goal finally achieved just weeks after Roosevelt passed away. President Woodrow Wilson signed the Grand Canyon National Park Act Feb. 26, 1919, creating the national park visited by more than 6 million travelers each year.

Proposed legislation riles, cheers wormers

Ellsworth American (Rappaport)

The age-old conflict over access to Maine's tidal flats got another airing last week during a public hearing on proposed legislation in the Legislature's Marine Resources Committee. Rep. Stanley Zeigler (D-Montville) filed a bill that would prohibit operation of a motor vehicle other than "authorized emergency vehicles" in the intertidal zone except to launch or retrieve "watercraft" or to "engage in an activity that has received any necessary state or local permits and for which a motor vehicle is necessary." Known as LD 290, the bill characterizes the prohibited activities as a civil violation subject to a fine between \$100 and \$500. A fourth offense within a five-year period would be a Class E crime.

NPS announces new superintendent for Klondike Gold Rush National Historical Park

KHNS (Radio) (Stremple)

The National Park Service announced that Jason Taylor will be the new Superintendent for the Klondike Gold Rush National Historical Park in Skagway today. Taylor is currently the Regional Chief of Natural Resources for the National Park Service Alaska Region. He has 15 years of government service experience between National Park Service and the Bureau of Land Management. Taylor says he considers it an honor to serve the park and is excited to be a part of the Skagway community. The National Park Service says they chose Taylor for his leadership skills, commitment to teamwork, and focus on a positive work environment.

U.S. Geological Survey

Why Planned Oil Drilling in the Everglades Has Florida Cities Worried

CityLab (Renner)

On April 23, 2003, hundreds of Miami residents pulled underwear from their washers to find that it had turned pink. No, the city didn't collectively forget a red sock in their load of whites: The United States Geological Survey had performed a test. On the previous morning, scientists had drilled a well near a protected area west of Doral, which was meant to insulate the area's water supply from contamination. The scientists injected rhodamine, a harmless dye, into the limestone. They believed that the dye would slowly work its way into the local water supply—but they were wrong. It traveled so fast that residents noticed traces of the dye before the day was over. Panic ensued.

Hope for Frogs Facing Mass Extinction Due to Ebola-like Virus

Laboratory Equipment (Doughman)

Genetic diversity could be key to helping frogs survive outbreaks of a deadly virus called Ranavirus. The findings, published in the journal Immunogenetics, may prevent a mass extinction of frog populations worldwide. Frogs play an important role in the the food chain. They also eat insects that are vectors for human disease. Ranavirus affects cold-blood animals, such as amphibians, reptiles and fish. Like the Ebola virus, the Ranavirus is most deadly to animals still in the developmental stage. Symptoms of the disease include skin ulcers and internal bleeding.

Caldera Chronicles: USGS researcher led hydrothermal studies in Yellowstone

Billings Gazette (Hurwitz)

Yellowstone's diverse hydrothermal features have attracted numerous scientists ever since Ferdinand V. Hayden led the geological survey of northwestern Wyoming in 1871 and Yellowstone National Park was established in 1872. One of the most distinguished researchers and staunchest supporters of Yellowstone was the late Don White (1914-2002) of the U.S. Geological Survey. White had a significant impact on hydrothermal research in Yellowstone, and his testimony before Congress, together with former park superintendent John Townsley, is what gave Yellowstone its protection under the Geothermal Steam Act's amendments in 1970.

DEC announces 4 'State of Lake Ontario' meetings

New York Upstate (Figura)

The state Department of Environmental Conservation has scheduled four "State of Lake Ontario" meetings across Upstate New York next month to review current research data and the condition of the lake's fisheries. Meetings have been scheduled in Niagara, Monroe, Oswego and Schenectady counties. "Lake Ontario and its tributaries provide world-class angling opportunities that are generating substantial recreational and economic benefits to towns and cities along the lake," DEC Commissioner Basil Seggos said.

Regulators: Oil and gas boom in Texas looks to continue

Associated Press

Recent discoveries of massive energy reserves in West Texas will only enhance the already booming energy industry in the state according to testimony Wednesday offered before the Senate Committee on Natural Resources & Economic Development. As part of the first meeting of the session, newly named Chair and Granbury Senator Brian Birdwell invited all three Railroad Commissioners to brief lawmakers on the status of the state's oil and gas industries.

Earthquake shakes Kanosh, Utah

Deseret News (Davis)

A 4.03 magnitude earthquake struck near Kanosh early Wednesday. The U.S. Geological Survey indicated that the quake struck just after midnight about 5 miles southwest of Kanosh. A 3.3 magnitude quake near Kanosh was also reported Saturday. No damage was reported in Wednesday morning's quake.

Utah hit by 5th minor earthquake in 5 days

Salt Lake Tribune (Pierce)

The fifth minor earthquake in five days rattled Utah just after midnight Wednesday — this one a magnitude 4 about five miles southwest of Kanosh in Millard County. There were no reports on damage in the sparsely populated area.

First USGS Map Published Since Eruption Shows Lava Thickness

Big Island Video News

The USGS Hawaiian Volcano Observatory has published the first map on its website since the final days of the eruption of Kilauea Volcano on the Lower East Rift Zone; a preliminary map showing lava flow thicknesses. During the summer of 2018, lava flows erupted from 24 fissures in and around Leilani Estates, “which buried an area of about 35.5 sq km (13.7 sq mi) and added about 875 acres of new land to the island,” USGS scientists say.

Opinion

PD Editorial: A win-win deal in Washington to conserve land

Santa Rosa Press Democrat (Editorial Board)

In this era of bipartisan gridlock in Washington, the Natural Resources Management Act shows Democrats and Republicans can sometimes work together, even if they need some good old-fashioned pork to grease the wheels. For decades, lawmakers developed coalitions to pass bills — especially spending bills — by including sweeteners for specific states and congressional districts. They called those targeted items earmarks, and some people called them pork-barrel spending. It might be a bridge, a highway, a museum, a park or anything else. A representative or senator could support a bill she wasn't thrilled about because she could tell

her constituents that her vote secured funding for a local project.

Opinion: Join our efforts to “Save the Rock Creek Deer”

Forest Hills Connection (Barton)

Over the last six years residents of Forest Hills may have noticed regular late fall bulletins from the National Park Service (NPS) announcing a “window of opportunity” for sharpshooters to kill deer in Rock Creek Park. NPS claims that the deer need to be killed because they are consuming too many tree seedlings and damaging the ability of the park to renew itself. At the time it was first proposed, Save The Rock Creek Park Deer opposed this program and took NPS to court, on the basis that we have seen no evidence of any threat to the park from the deer. Instead we believe the threat comes from the non-native and invasive plants that have taken over the park, as reported in many Rock Creek Park documents.

Wind farm could benefit fishing in local waters

Barnstable Patriot (Paquette)

I would like to expand upon my comments as quoted in “Concerns, support aired at Vineyard Wind meeting” (Feb. 14, Page One). Recreational anglers recognize the potential benefits of offshore wind power and believe it is possible for turbine development to coexist with and even improve fishing in the Atlantic, provided project developers and government agencies abide by three clear principles that fall under the categories of access, public input and science.

Top National News

Coast Guard Lieutenant Arrested in Alleged Domestic Terror Plot

Wall Street Journal (Kesling)

A U.S. Coast Guard lieutenant and self-described white nationalist was arrested after authorities said they found more than a dozen firearms, ammunition and a hit list of Democratic lawmakers, activists and media personalities in his Maryland home. Lt. Christopher Paul Hasson was arrested Friday on charges of illegal gun possession. But prosecutors said in subsequent court filings that those charges were the “proverbial tip of the iceberg,” accusing him of being a domestic terrorist “bent on committing acts dangerous to human life that are intended to affect governmental conduct.”

White House Panel Will Study Whether Climate Change Is a National Security Threat. It Includes a Climate Denialist.

New York Times (Davenport)

President Trump is preparing to establish a panel to examine whether climate change affects national security, despite existing reports from his own government showing that global warming is a growing threat. According to a White House memo dated Feb. 14, Mr. Trump’s staff members have drafted an executive order to create a 12-member committee, which will include a White House adviser, William Happer, whose views are sharply at odds with the established scientific consensus that carbon dioxide pollution is dangerous for the planet.

[The U.S. and China Fear Their Leaders Will Cave In on Trade Battle](#)

Wall Street Journal (Wei, Davis)

Despite their sharp differences in style, background and policies, Chinese leader Xi Jinping and President Trump share a common problem: growing concerns on the home front that they are going to cave in to the other side. Shortly before President Xi's special envoy jetted to Washington on Tuesday to continue trade talks, an influential Communist Party journal published a speech by Mr. Xi in which he vowed not to give ground on the kind of political and legal reform needed to protect foreign intellectual property in China, a key U.S. demand.

Date	Host	Title
3/13-14	Animal Welfare Information Center	Meeting the Information Requirements of the Animal Welfare Act, March 2019
3/20	ACORE	Renewable Energy Policy Forum



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From: [Vander Voort, Faith](#)
To: [Daniel Jorjani](#)
Cc: [Interior Press](#)
Subject: Fwd: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it
Date: Monday, April 22, 2019 7:24:45 PM
Attachments: [Spangle Oct. 14, 2016 Vigneto non-concurrence letter.pdf](#)
[Spangle Oct. 26, 2017 Vigneto concurrence letter to Corps.pdf](#)
[Spangle 2004 letter to Corps re Vigneto.pdf](#)
[Spangle 2015 letter to Corps re Vigneto consultation.pdf](#)

Dan,
Please advise.

----- Forwarded message -----

From: Davis, Tony <TDavis@tucson.com>
Date: Tue, Apr 16, 2019 at 6:02 PM
Subject: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it
To: interior_press@ios.doi.gov <interior_press@ios.doi.gov>

To the Interior Department's Office of Communications,

I am sending a second email to correct a factual error from my first email. I said in that email that Spangle wrote two letters on the Villages at Vigneto project to the Army Corps in Oct. 2017. Actually, the two letters were written in October 2016 and October 2017. The other two letters that I sent earlier were written by Spangle in 2004 and 2015.

Sorry about the error.

Sincerely,

Tony Davis

Arizona Daily Star

From: Davis, Tony
Sent: Tuesday, April 16, 2019 8:33 AM
To: interior_press@ios.doi.gov
Subject: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it

To the Office of
Communications
U.S. Department of
Interior:

I am working on a
story based on a recent
interview I had with
Steve Spangle, who
until his March 2018

retirement was for
more than 15 years
Field Supervisor for
the U.S. Fish and
Wildlife Service's
Arizona Ecological
Services office in
Phoenix. I am seeking
some comments from
the Interior Department
solicitor's office or

from the broader
department on Mr.
Spangle's comments
regarding the service's
decision to reverse its
stand on a major new
development in
Southern Arizona.

My questions pertain to
two letters that Mr.
Spangle sent the U.S.

Army Corps of
Engineers back in Oct.
2017 regarding the
Vllages at Vigneto, a
planned, 28,000-home
development in
Benson, a town of
about 5,000 people
about an hour's drive
east of Tucson. I have
attached those letters,

along with two other, relevant letters on the development that he'd written in earlier years.

He told me that back in October 2017, he received political pressure, indirectly, from top-level Interior Department officials to reverse himself on a

crucial letter he'd
previously written,
pertaining to Vigneto
development in
Benson, Arizona he
had written the Army
Corps of Engineers
earlier that month. He
said that it was strongly
suggested to him that if
he knew what was

good for him
politically, he would
reverse himself. So he
did. But he made it
clear to me that when
he reversed himself, he
didn't personally
believe in what he was
doing. He said that he
was "rolled" by
higherups at the

department over this issue.

He told me he'd received the message that he should reverse himself from an attorney in Interior's Solicitor's office. He declined to name that person because he said the attorney is a friend.

“I made a decision that was in my purview to make. I was overruled by somebody who didn’t have my kind of experience,” he told me. “I want to distinguish it from making a policy call based on fact, as opposed to making a

policy call based on politics; I had a strong feeling this was a political decision on their part.”

Mr. Spangle’s first letter, written Oct. 14, 2017, told the Corps, which was reviewing a previously issued, Section 404 Clean

Water Act permit for Vigneto, that it had incorrectly determined that the project was unlikely to affect endangered species. He wrote that the development could affect the Western yellow-billed cuckoo and the Northern

Mexican gartersnake,
and ordered the Corps
to conduct a full-scale
biological assessment
of the project as part of
a consultation with the
wildlife service on the
development.

Then on Oct. 26, 2017,
Mr. Spangle reversed
himself and wrote a

followup letter to the Corps, saying that because the developer had said that the project could and would be built even if the Clean Water Act permit weren't granted to Vigneto, no additional consultation, including that

biological assessment,
would be required.

Because of the
developer's position
that the permit wasn't
needed, Mr. Spangle
said that only the
impacts of the
development's building
in or near washes
needed to be studied,

and that had already been done in an informal consultation, in which he accepted the Corps' findings that this work isn't likely to affect endangered species. His reversal meant that the impacts of the entire project — which would include

groundwater pumping
to serve the
development –
wouldn't be reviewed.

He said the question he
has asked himself
about this issue – and
still hasn't been able to
answer – is why the
developer is applying
for the 404 permit if it

doesn't believe it needs
one to build the
project. He said that
higherups in
Washington cited a
court case to back up
their view, but he
didn't think it applied
in the case of Vigneto.

He told me, "When I
got the call that day,

the first word I got
from the attorney in the
solicitor's office was,
'I just got a call from a
very high political
person in the
department.' She
wouldn't reveal the
name. It was a
politically manipulated
motivation of the

system.

“She said she was strongly encouraged to call me and point out the error of my ways. I wasn’t ordered to rescind my letter. I was advised that it was the right thing to do.

“In my job, I work for

the administration. The administration's position takes precedence over mine.”

But he also told me that in his tenure as FWS Arizona ES field supervisor and in his entire 29-year career at the wildlife service, he had never before

experienced political pressure from D.C. higherups and had never been overruled before by Washington-based administration officials. That record dates back to the Ronald Reagan presidency, he noted to me.

I'm writing to seek
Interior's comments on
Mr. Spangle's remarks.
Was he essentially
overruled by higherups
at the department and
strongly urged to
reverse his position, as
he said to me? Was
there political pressure
put on him to reverse

his stance? Also, was then-Deputy Secretary David Bernhardt involved in any way in helping advance the case for changing the department's stance on this matter?

He also said the Vigneto case and what he viewed as a growing

anti-environmental
stance at the Interior
Department were
contributing factors in
his decision to accept a
buyout from the
department and retire
when he did, although
he also acknowledged
that at age 64 at the
time, he was at the

point where he was ready to go reasonably soon.

Among the other issues he cited as influencing his feelings about the department were its decisions to shrink national monuments set aside by former President Obama, its

loosening of
restrictions on oil
drilling and public
lands and its reversal of
its longstanding
position that the federal
Migratory Bird Treaty
Act could be enforced
on parties such as mine
open pits that
unintentionally kill

birds.

“The department is now much more anti-regulatory and much more anti-environment,” he said.

“The whole direction of the Department of the Interior was going in absolutely the opposite direction of

where I thought it should, on many issues.”

If DOI could get back to me with a response to any and/or all of Mr. Spangle’s comments by Thursday, I would greatly appreciate that. I am hoping to publish an article based on my

interview with him and
your responses in the
upcoming Sunday
editions of the Star.

Sincerely,

Tony Davis

Environmental reporter

Arizona Daily Star

520-806-7746 o

520-349-0350 c

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Faith C. Vander Voort

Press Secretary & Senior Advisor to the Director of Communications

Department of the Interior



United States Department of the Interior

Fish and Wildlife Service
Arizona Ecological Services Office
9828 N. 31st Avenue Ste C3
Phoenix, AZ 85051

Telephone: (602) 242-0210 Fax: (602) 242-2513



AESO/SE

02EAAZ00-2015-I-0600

02EAAZ00-2015-CPA-0021

October 14, 2016

Sallie Diebolt
Chief, Arizona Branch
Department of the Army
Los Angeles District, Corps of Engineers
Arizona-Nevada Area Office
3636 North Central Avenue, Suite 900
Phoenix, Arizona 85012-1939

RE: Request for Endangered Species Act Consultation on the Offsite Mitigation Parcel for the Villages at Vigneto Development Project, Cochise County, Arizona (Permit Number 2003-00826-SD)

Dear Ms. Diebolt:

Thank you for your correspondence of April 12, 2016, received on April 12, 2016, requesting informal consultation pursuant to section 7 of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) (Act) on the proposed Offsite Mitigation Parcel for the Villages at Vigneto Development Project, Cochise County, Arizona (proposed mitigation action). Your April 12, 2016, letter also transmitted the December 18, 2015, *Biological Evaluation, Vigneto (aka Whetstone Ranch) Offsite Mitigation Parcel* (Mitigation Parcel BE), prepared by WestLand Resources, Inc. for El Dorado Benson, LLC. We are also in possession of the November 23, 2015, *Implementation Plans for the Whetstone Ranch Habitat Mitigation and Monitoring Plan - Corps File No. SPL-2003-00826-SDM, WestLand Project No. 460.76* (HMMP), the May 24, 2016, WestLand Resources and Hilgart-Wilson *Villages at Vigneto Final Community Master Plan and Development Plan* (Final CMP), and your July 20, 2016, Notice of Permit Suspension.

The U.S. Army Corps of Engineers (Corps) has requested concurrence from the U.S. Fish and Wildlife Service (FWS) that the proposed mitigation action may affect, but is not likely to adversely affect the threatened northern Mexican gartersnake (*Thamnophis eques megalops*), the threatened yellow-billed cuckoo (*Coccyzus americanus*), and the respective species' proposed critical habitat.

Based on the information you provided with your April 12, 2016, correspondence; our understanding of the proposed mitigation action and the Villages at Vigneto development; and information gathered during a September 8, 2016, site visit with you, your staff, and

Sallie Diebolt

representatives of WestLand Resources, Inc.; we do not concur with your determination that the proposed action may affect, but is not likely to affect these species and their respective proposed critical habitat.

Our rationale for non-concurrence appears below, and is followed by a request for additional information pursuant to the regulations governing section 7(a)(2) interagency consultation at 50 CFR §402.14.

Description of the Proposed Action

Activities proposed to be conducted on an offsite mitigation parcel were described in the December 18, 2015, Mitigation Parcel BE (incorporated herein via reference), and include: (1) removal of structures followed by soil ripping; (2) installation of 1,890 feet of fencing along an existing railroad right-of-way; (3) removal of weeds, tilling, and planting of native plant species, including container-grown mesquite (*Prosopis* spp.); (4) removal of construction debris and nonnative tamarisk (*Tamarix* spp.) and planting of native meso- and hydriparian trees around an existing artesian well and its existing wetland complex; (5) grading of and placement of gabion structures within eroding channels in the southwest portion of the parcel; and (6) planting 3,300 native mesquite and cottonwood trees throughout the mitigation parcel, including along the San Pedro River. All activities are proposed to be conducted between October 1 and April 15.

The Villages at Vigneto development project (formerly known as Whetstone Ranch) is a large residential development (28,000 dwelling units on approximately 12,167 acres, with associated commercial and recreational facilities) and is proposed to be constructed in the area partially covered by a prior Clean Water Act section 404 permit (Permit Number 2003-00826-SDM) signed on June 21, 2006. The 2006 permit authorized the discharge of dredged and/or fill material into 51 acres of waters of the United States and around unnamed washes in Sections 31, 32, and 33, Township 17 South, Range 20 East; and Sections 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, and 18, Township 18 South, Range 20 East, in Benson, Cochise County, Arizona. The discharges were permitted in order to develop the approximately 8,200-acre Whetstone Ranch (as the project was known at that time) as a master-planned community that would have included residential and commercial land uses, and associated stormwater management facilities, roadways, utilities, and recreational amenities. Most notably, the Final CMP (page 13) currently states that 20,000 dwelling units will be built on the 8,200 permitted acres. We also note that as of July 20, 2016, the Corps has suspended the June 21, 2006, Clean Water Act section 404 permit.

The proposed mitigation action is being implemented under the November 23, 2015, Villages at Vigneto (again, formerly Whetstone Ranch) Habitat Mitigation and Monitoring Plan (HMMP). The HMMP is intended to facilitate the proponent's compliance with Corps and Environmental Protection Agency (EPA) regulations governing compensatory mitigation for activities authorized by Department of the Army permits (CFR 33 C.F.R. § 332.1 through 332.83 and EPA 40 CFR § 230). Under 33 CFR § 332, which states that "Compensatory mitigation involves actions taken to offset unavoidable adverse impacts to wetlands, streams and other aquatic resources authorized by Clean Water Act section 404 permits and other Department of the Army (DA) permits, compensatory mitigation is a critical tool in helping the Federal government to

Sallie Diebolt

meet the long standing national goal of 'no net loss' of wetland acreage and function. For impacts authorized under section 404, compensatory mitigation is not considered until after all appropriate and practicable steps have been taken to first avoid and then minimize adverse impacts to the aquatic ecosystem pursuant to 40 CFR part 230 (i.e., the Clean Water Act Section 404(b)(1) Guidelines)." The compensatory mitigation being implemented via the HMMP is thus a necessary and inseparable component of the June 21, 2006, Clean Water Act section 404 permit already issued for Whetstone Ranch (and to be used for the Villages at Vigneto development). Our understanding of the HMMP is that it directs the onsite preservation of 1,624 acres of property within the 8,200-acre Villages at Vigneto development (including waters of the United States and associated xeroriparian habitat) as well as the aforementioned proposed mitigation action.

Interrelated and interdependent actions are defined in the October 1, 2008, edition of the Act's implementing regulations at 50 CFR 402.02 (page 882), wherein it states that "Interrelated actions are those that are part of a larger action and depend on the larger action for their justification. Interdependent actions are those that have no independent utility apart from the action under consideration." The regulations' background narrative (see 51 FR 19926, page 19932) specifically states that the "but for" test should be used to assess whether an activity is interrelated with or interdependent to the proposed action. As stated above, the HMMP guides the implementation of the mitigation for the impacts to the waters of the US of the larger action, which is the Villages at Vigneto Development. It is therefore our opinion that the Corps' Clean Water Act section 404 permit for the Villages at Vigneto Development project should not have been issued (and cannot be released from its suspended status) *but for* the approval of the HMMP and thus, the proposed mitigation action is an interrelated action of the development.

Given the interrelatedness of the proposed development and mitigation actions, there exists a single action area, defined by the Act's implementing regulations at 50 CFR 402.02 (page 881) as "all areas to be affected by the Federal action and not merely the immediate area involved in the action" that encompasses both the development and mitigation parcels.

Furthermore, our review of the scientific literature and the proposed Villages at Vigneto Development, to which the mitigation action is interrelated, indicates that appreciable direct and indirect effects to threatened and endangered species, including proposed and final critical habitat, are reasonably certain to occur. For example, it is likely that an appreciable volume of groundwater will be withdrawn to serve the development. Such a displacement of groundwater from the aquifer is likely to reduce flow in the San Pedro River, in reaches designated as critical habitat for the southwestern willow flycatcher and proposed as critical habitat for the yellow-billed cuckoo and northern Mexican gartersnake.

Lastly, we note that the project area for the Villages at Vigneto (12,324 acres) as defined in the Final CMP is appreciably larger than the area permitted by the Corps on June 21, 2006, for Whetstone Ranch (8,200 acres); we are concerned that the action will be implemented in a piecemeal manner that does not include analyses of its full environmental impact.

In summary, we cannot initiate consultation pursuant to the Act until we receive a Biological Assessment for the development and mitigation projects that includes analyses of all direct and

Sallie Diebolt

indirect effects, including the effects of interrelated actions.

We remain available to meet with you to discuss these issues. Please refer to file numbers 02EAAZ00-2015-I-0600 and 02EAAZ00-2015-CPA-0021 in any future contacts or correspondence. If we can be of further assistance, please contact Jason Douglas at (520) 670-6150 (x226) or Jean Calhoun (520) 670-6050 (x223).

Sincerely,



Steven L. Spangle
Field Supervisor

cc (hard copy):

Field Supervisor, Fish and Wildlife Service, Phoenix, AZ

Jean Calhoun, Assistant Field Supervisor, Fish and Wildlife Service, Tucson, AZ

cc (electronic copy):

Jason Brush, Wetlands Section Supervisor, Environmental Protection Agency, San Francisco, CA

Chief, Habitat Branch, Arizona Game and Fish Department, Phoenix, AZ (pep@azgfd.gov)

Raul Vega, Regional Supervisor, Arizona Game and Fish Department, Tucson, AZ



United States Department of the Interior

Fish and Wildlife Service
Arizona Ecological Services Office
9828 North 31st Avenue Suite C3
Phoenix, Arizona 85051

Telephone: (602) 242-0210 Fax: (602) 242-2513



In Reply Refer to:

AESO/SE

02EAAZ00-2015-I-0600

02EAAZ00-2015-CPA-0021

October 26, 2017

Sallie Diebolt
Chief, Arizona Branch
Department of the Army
Los Angeles District, Corps of Engineers
Arizona-Nevada Area Office
3636 North Central Avenue, Suite 900
Phoenix, Arizona 85012-1939

RE: Request for Endangered Species Act Consultation on the Offsite Mitigation Parcel for the Villages at Vigneto Development, Cochise County, Arizona (Permit Number 2003-00826-SD)

Dear Ms. Diebolt:

Thank you for your correspondence of May 26, 2017, requesting informal consultation pursuant to section 7 of the Endangered Species Act (16 U.S.C. 1531 et seq.) (Act) on the proposed offsite mitigation parcel associated with your re-evaluation of the 2006 Clean Water Act section 404 permit for the Villages at Vigneto Development Project, Cochise County, Arizona (proposed action). Your May 26, 2017, letter transmitted the *Biological Evaluation for SPL-2003-00826* (May 2017 BE). Your May 26, 2017, letter seeks our concurrence with your determination that the proposed action may affect, but is not likely to adversely affect the western yellow-billed cuckoo (*Coccyzus americanus*) and, in conference, its proposed critical habitat; the southwestern willow flycatcher (*Empidonax traillii extimus*); and the northern Mexican gartersnake (*Thamnophis eques megalops*) and, in conference, its proposed critical habitat. We concur with your "may affect, not likely to adversely affect" determinations, as described below.

This letter supersedes our October 14, 2016, correspondence to you (File numbers: 02EAAZ00-2015-I-0600 and 02EAAZ00-2015-CPA-0021), in which we disagreed with your determinations with respect to the action area and effects of the proposed action. The contents of our October 14, 2016, letter, and other related correspondence are described in detail in the following correspondence history.

April 12, 2016: We received your request for informal consultation on the proposed Offsite Mitigation Parcel for the Villages at Vigneto Development Project. Your April 12, 2016, letter transmitted a now-superseded December 18, 2015, Biological Evaluation (December 2015 BE), Vigneto (aka Whetstone Ranch) Offsite Mitigation Parcel (April 2016 BE). Your May 26, 2017, correspondence and May 2017 BE supersede your April 12, 2016, letter and December 2015 BE, respectively.

July 21, 2016: We received a copy of your July 20, 2016, notice of permit suspension that you transmitted to El Dorado Holdings, Inc. (the permit applicant).

October 14, 2016: We transmitted a letter to you (File numbers: 02EAAZ00-2015-1-0600 and 02EAAZ00-2015-CPA-0021), in which we expressed “our opinion that the Corps’ Clean Water Act section 404 permit for the Villages at Vigneto Development project should not have been issued (and cannot be released from its suspended status) *but for* the approval of the HMMP and thus, the proposed mitigation action is an interrelated action of the development.” We also asserted that the proposed action should include analyses of the effects of residential development and its appreciable water use in addition to the effects of the Clean Water Act Section 404-related mitigation actions. Lastly, we expressed concerns regarding piecemeal implementation of a larger, 12,324-acre development area identified in development plans. Our October 14, 2016, assertions were based on our review of additional documents, including: (1) the November 23, 2015, *Implementation Plans for the Whetstone Ranch Habitat Mitigation and Monitoring Plan - Corps File No. SPL-2003-00826-SDM, WestLand Project No. 460.76* (HMMP); (2) the May 24, 2016, *WestLand Resources and Hilgart-Wilson Villages at Vigneto Final Community Master Plan and Development Plan* (Final CMP); and (3) your July 20, 2016, Notice of Permit Suspension.

September 25, 2017: We received your letter transmitting a September 14, 2017, letter from El Dorado Holdings, Inc. (the permit applicant), in which the applicant stated definitively that development of the site without a Clean Water Act section 404 permit is feasible from an engineering and land use perspective and that El Dorado will develop the site in this manner if needed.

We now defer to your definition of the action area and retract our October 14, 2016, letter. Our rationale for this deferral appears in the following narrative.

Appendix H of your May 2017 BE describes the manner in which the “No Federal Action” alternative required for the proposed action’s Clean Water Act Section 404 alternatives analysis and National Environmental Policy Act (NEPA) impact analysis was determined. Specifically, Appendix H documents your determination that the No Federal Action alternative for the development of the Villages at Vigneto is feasible based on the action’s substantive differences from the Lone Mountain Development, which was the subject of *Save Our Sonoran v. Flowers*, 408 F.3d 1113 (Ninth Circuit 2005). That case found that no development of that property could

occur without affecting Waters of the United States. Unlike the situation in the Lone Mountain Development, in this case you have asserted that the Villages at Vigneto development can and will occur without affecting Waters of the United States if you choose to not issue a Section 404 permit to the developer of the Villages at Vigneto. Appendix I of your May 2017 BE contains a detailed description of the No Federal Action development alternative for the Villages at Vigneto, stating that it is feasible. In brief, the No Federal Action alternative would be the development of the Villages at Vigneto property without any need to fill waters of the U.S. and therefore, no need to obtain a Clean Water Act Section 404 Permit. You thus determined that the only substantive difference between the No Federal Action alternative and the action under consultation in this review are the effects associated with the areas directly and indirectly affected by fill material and the implementation of Clean Water Act mitigation activities (i.e. the HMMP). There would be no interdependent and/or interrelated actions (i.e. development of 28,000 dwelling units, with associated commercial and recreational facilities, and the resulting water use), as a similar development (resulting in similar effects) could occur absent permit issuance. The September 14, 2017, El Dorado letter expands on the analysis found in Appendix I, and states definitively that the No Federal Action alternative is feasible from an engineering and land use perspective and that El Dorado will develop the site in this fashion if necessary.

In summary, we were previously consulting on the issuance of the permit on the proposed development, which we believed would enable the development. We subsequently received assurance from both the Corps and the applicant that the "no-permit" development is feasible and will in fact occur with or without a permit. Therefore, considering this new information in light of the language in our Section 7 Handbook (U.S. Fish and Wildlife Service (FWS), and National Marine Fisheries Service 1998, page 4-28), the Act's implementing regulations (50 CFR 402.02, page 881), and prior court findings [*Save Our Sonoran v. Flowers* as well as *National Wildlife Federation v. Coleman* (529 F.2d 359 Fifth Circuit, cert denied 429 U.S. 979 (1976))], without "but-for" causation we cannot evaluate the development itself as an interrelated or interdependent action.

Our October 14, 2016, letter also expressed our concerns with piecemeal development of a larger, 12,324-acre development described in the Final CMP. Your May 26, 2017, letter, stated that "development on the other approximately 4,000 acres might occur many years from now and have not yet been planned at a level to determine whether section 404 permits are necessary". We defer to your determination that the potential future development has independent utility relative to the proposed action presently under consultation (i.e. future development will not occur solely "but for" implementation of your current proposed action). Again, we concur with your species effects determinations, and our rationales appear in the species-by-species analyses below.

Description of the Proposed Action

The proposed action is described in detail in your May 2017 BE, and that description is incorporated herein by reference. In brief, the proposed action is the issuance of a Clean Water Act Section 404 permit for the discharge of dredged and/or fill material into 51 acres of Waters of the United States for development of the 8,200-acre Villages at Vigneto master planned community. The proposed action also includes implementation of a Habitat Mitigation and Monitoring Plan (HMMP, WestLand 2005 and Appendix A of the May 2016 BE; incorporated herein via reference) for an offsite mitigation parcel.

As outlined in the HMMP, which is required by the Permit, compensatory mitigation consists of: (1) onsite preservation of 1,624 acres of waters of the United States and associated xeroriparian habitat (in upland buffers adjacent to waters) within the 8,200-acre master planned community; and (2) the preservation, enhancement and restoration of a 144-acre offsite mitigation parcel along the San Pedro River (see BE Figure 1). Planned activities on the offsite area (BE Figure 2b) consist of restoration and enhancement work pursuant to the approved HMMP and are depicted in the Implementation Plans provided as BE Appendix A. The aforementioned descriptions of mitigation activities are incorporated herein via reference, but briefly, they include: (1) removal of structures; (2) installation of wildlife-friendly perimeter fencing; (3) management of fallow agricultural fields to support the development of a velvet mesquite (*Prosopis velutina*) bosque; (4) enhancement of habitat at a wetland complex associated with an artesian well; (5) stabilization of actively eroding channels on the site with further mesquite bosque restoration; and (6) planting of 3,300 native plants throughout the offsite area, including within the San Pedro River channel. All work associated with the mitigation activities planned within the offsite area will occur between October 1 and April 15 to avoid the potential nesting and migration season for yellow-billed cuckoo and southwestern willow flycatcher.

Yellow-billed Cuckoo and Proposed Critical Habitat

The western Distinct Population Segment of the yellow-billed cuckoo was listed as a threatened species under the Act on October 3, 2014 (79 FR 59992; FWS 2014a). We proposed critical habitat for the species on August 15, 2014 (79 FR 48548; FWS 2014b). Proposed critical habitat encompasses 546,335 acres across the western United States. Your May 2016 BE contains additional information regarding the rangewide status of the species and its status within the action area, and this is incorporated herein via reference.

Yellow-billed cuckoos have not been detected within the 1,624 acres of onsite preservation areas or within the 51 acres of waters of the United States that will be filled, though we note that only cursory, non-protocol-level surveys were conducted in and near these areas in 2016. Notwithstanding the incomplete survey history, it is unlikely that the 51 acres of fill will appreciably reduce the amount of yellow-billed cuckoo habitat within the ephemeral waters of the United States. Yellow-billed cuckoos that may be present in the 1,624 acres of onsite preservation areas will not be affected, as the preservation is a passive action with no potential to

alter the existing xeroriparian habitat. Protocol-level (Halterman *et al.* 2015) surveys were conducted in the 144-acre offsite mitigation area and there are two probable breeding territories documented on the mitigation site, with an additional six possible breeding territories in the vicinity. The offsite mitigation area is within yellow-billed cuckoo proposed critical habitat; the onsite preservation areas are not.

We concur that the proposed action is not likely to adversely affect the yellow-billed cuckoo or adversely modify or destroy its proposed critical habitat for the following reasons:

- The restoration activities within the offsite mitigation area will be conducted between October 1 and April 15. This is outside of the yellow-billed cuckoo breeding and migration season, thus avoiding effects to individuals of the species.
- The preservation of 1,624 acres of onsite habitat is a passive action and is likely to benefit yellow-billed cuckoos via the retention of the areas' existing xeroriparian habitat in an unaffected state.
- It is unlikely that the fill of 51 acres of Waters of the United States will result in measurable effects to xeroriparian habitat for yellow-billed cuckoos relative to the similar habitat contained within the 1,624 acres of onsite preservation areas. Therefore, these effects are insignificant because it is unlikely to measurably reduce the overall occurrence of xeroriparian habitat available to yellow-billed cuckoos within onsite areas.
- The restoration activities within the offsite mitigation area include the removal of tamarisk trees (*Tamarix* spp.), which will result in temporary negative effects to yellow-billed cuckoo proposed critical habitat Primary Constituent Element (PCE) 1 (riparian vegetation). However, we anticipate the planting of 3,300 native plants throughout the offsite mitigation area (see the HMMP) will minimize these temporary negative effects. The establishment of a mesquite bosque in the fallow agricultural fields, in particular, is anticipated to benefit the species by increasing the areal extent of yellow-billed cuckoo habitat.
- We do not anticipate measurable effects to PCE 2 (adequate prey base), given the replacement of tamarisk (already interspersed with native riparian species) with additional native riparian species, as we anticipate no appreciable difference in the availability of nesting substrate and/or prey base between the two riparian communities (Fleishman *et al.* 2003).
- We anticipate potential improvements to PCE 3 (dynamic riverine processes) via the arresting of active erosion on the offsite mitigation parcel and the planting of additional native riparian vegetation within the San Pedro River on the site.

Southwestern Willow Flycatcher

The southwestern willow flycatcher was listed as endangered, without critical habitat, on February 27, 1995 (60 FR 10694-10715; FWS 1995). A definitive determination of critical habitat was published on January 3, 2013 (78 FR 344; FWS 2013a). A complete description of the biology of the southwestern willow flycatcher is contained in the *Southwestern Willow Flycatcher Recovery Plan* (FWS 2002). The content of these documents is incorporated herein via reference.

The 1,624 acres of onsite preservation areas and 51 acres of waters of the United States that will be filled are xeric, and lack the mesic riparian vegetation in which southwestern willow flycatchers are known to breed. We anticipate the unaffected habitat in the 1,624 acre onsite preservation area will remain available to migrating and dispersing southwestern willow flycatchers. Portions of the 144-acre offsite mitigation area away from the San Pedro River are likely too xeric to support southwestern willow flycatcher breeding, but may be used for foraging areas for breeding birds nesting closer to the river and as stopover sites during migration; these areas will remain available for use by birds, as the replacement of nonnative tamarisk trees will be supplanted by structurally-similar native trees. The portion of the offsite mitigation area immediately adjacent to the San Pedro River does contain some suitable southwestern willow flycatcher breeding habitat in the form of tamarisk interspersed with Fremont cottonwood (*Populus fremontii*) and Goodding's willow (*Salix gooddingii*). We do not, however, anticipate that the conversion from a mixed native/nonnative riparian community to a predominately native riparian community will measurably change the amount of potential nesting substrates, prey base, or stopover sites (Fleishman *et al.* 2003). Protocol-level surveys (Sogge *et al.* 2010) have not been performed in either the onsite preservation areas or offsite mitigation area. Again, we do not anticipate the proposed actions in these areas would adversely affect riparian birds, including southwestern willow flycatchers, (Fleishman *et al.* 2003) because the restored habitat will remain capable of supporting nesting, foraging and/or migration to the same or greater extent than at present.

We concur that the proposed action is not likely to adversely affect the southwestern willow flycatcher or adversely modify or destroy its critical habitat for the following reasons:

- The 1,624 acres of onsite preservation areas and 51 acres of waters of the United States that will be filled lack southwestern willow flycatcher breeding habitat, and the onsite preservation area will continue to be available as a stopover site during migration. There will be no effects to individuals of the species in these areas.
- We do not anticipate measurable effects to southwestern willow flycatchers within the offsite mitigation area along the San Pedro River because it is nominally suitable for breeding, feeding, and sheltering of the species, and will remain so (or be enhanced) as native trees are established along the channel and planted in place of nonnative species throughout the site. We also anticipate potential improvements to riparian habitat condition via the arresting of active erosion within upland areas on the offsite mitigation

area. Conducting these activities between October 1 and April 15 will minimize the potential to disturb the migration and/or potential nesting attempts by southwestern willow flycatchers. Therefore, these effects are insignificant.

- Critical habitat does not exist in the action area; therefore, none will be affected.

Northern Mexican Gartersnake and Proposed Critical Habitat

The northern Mexican gartersnake's status is described in detail in the final rule listing the species as threatened (79 FR 38678) (FWS 2014c) and the proposed critical habitat rule (78 FR 41550) (FWS 2013b); these documents are incorporated herein via reference. The offsite mitigation area is within northern Mexican gartersnake proposed critical habitat; the Waters of the United States and onsite preservation areas are not.

The northern Mexican gartersnake is a cryptic, highly mobile species that occurs in intermittent and ephemeral aquatic habitats and adjacent terrestrial habitats in which sufficient prey resources are available. It is likely extant in low-density populations along the San Pedro River from the International Border to its confluence with the Gila River. The species has also been documented in semidesert grasslands up to 1 mile (1.6 km) from the nearest known aquatic sites on the Appleton-Whittell Research Ranch in the Babocomari River watershed (J. Servoss pers. comm. 2015). The species' presence in terrestrial habitat may be due, in part, to the presence of thermal cover and hibernacula and/or prey, including reptiles, toads, rodents, and invertebrates.

We concur that the proposed action is not likely to adversely affect the northern Mexican gartersnake or adversely modify or destroy its proposed critical habitat for the following reasons:

- Northern Mexican gartersnakes could occur on the offsite mitigation parcel, but the likelihood of the species' occurrence is appreciably reduced by the ephemeral hydrology of the San Pedro River and the presence of harmful and competitive species (i.e. bullfrogs and spiny-rayed fishes) in upstream perennial reaches (FWS 2013c). We further believe northern Mexican gartersnakes occur in low densities because the May 2016 BE, citing FWS 2013c and FWS 2014, states that the closest known record of the species is approximately 33 miles upstream from the offsite area and that of the thirteen records with known location information from the Upper San Pedro River, none are within approximately 25 river miles of the offsite area. The northern Mexican gartersnake is thus anticipated to occur in low densities in the area, potentially using the ephemeral channel of the San Pedro River to move between other intermittent and/or perennial reaches and/or using the artesian wetland for opportunistic foraging (i.e. during summer toad breeding activities).
- Implementation of the restoration and enhancement activities on the offsite mitigation parcel will benefit gartersnakes by conserving and enhancing existing aquatic and riparian habitat along the San Pedro River and at the artesian spring system. Restoration activities could theoretically negatively affect northern Mexican gartersnakes by disturbing them in hibernacula, including during inactive periods in the winter. We feel, however, that there

is an immeasurably low likelihood that this will occur, again due to the species' low likelihood of occurrence on the offsite mitigation area. Therefore, the effects of restoration activities are discountable in the short-term and beneficial to the species in the long-term.

- Both the Waters of the United States that will be filled and the onsite preservation areas are dry except during runoff events (ephemeral), and do not contain the habitat in which northern Mexican gartersnakes typically occur. The Waters of the United States and onsite preservation areas are also located over one mile from the artesian spring system in the offsite mitigation area, in which northern Mexican gartersnakes might occasionally occur in low densities; dispersal from the latter to the former is not likely. Moreover, in the unlikely event that northern Mexican gartersnakes potentially occurring in the artesian spring system do disperse greater than one mile into the uplands, the 1,624 acres of onsite preservation areas will remain available for foraging, despite the fill of 51 acres of ephemeral Waters of the United States. There will thus be no measurable effects to individuals of the species in these areas.
- We anticipate some improvements to proposed critical habitat PCE 1 and PCE 2 (aquatic habitat characteristics and terrestrial habitat characteristics, respectively) via the restoration of native riparian habitat along the San Pedro River and the area surrounding the artesian spring system. We anticipate modest beneficial effects to PCE 3 (prey base) from habitat restoration at the artesian spring site because improved riparian conditions could provide additional cover for toads, small reptiles, and other northern Mexican gartersnake prey.

In summary, we based our concurrence with your determinations on the effects occurring within an action area including only: (1) the fill of 51 acres of waters of the United States for development of the Villages at Vigneto; (2) onsite preservation of 1,624 acres of waters of the United States and adjacent xeroriparian habitat within the 8,200-acre master planned community; and (3) preservation, enhancement, and restoration of a 144-acre offsite mitigation parcel. We evaluated the aforementioned actions because, as stated in your May 26, 2016, letter, they will occur in areas subject to your control and responsibility. We deferred to your determination that the effects of your proposed action do not include the development of 28,000 dwelling units, with associated commercial and recreational facilities, and the resulting water use because a similar development and effects will occur absent your proposed action.

This concludes informal consultation for your proposed action and further serves as a conference report for the proposed critical habitat for the yellow-billed cuckoo and northern Mexican gartersnake. No further section 7 consultation is required for this project at this time. Should project plans change, or if information on the distribution or abundance of listed species or critical habitat becomes available, our determinations may need to be reconsidered.

In keeping with our trust responsibility to American Indian Tribes, when we enter into consultation with agencies not in the Departments of Interior or Commerce on a proposed action that may affect Indian lands, Tribal trust resources, or Tribal rights, we encourage you to invite the affected Tribes and the Bureau of Indian Affairs to participate in the consultation process and, by copy of this letter, are notifying the Tribes listed below. We also encourage you to continue to coordinate the review of this project with the Arizona Game and Fish Department.

In all future correspondence on this project, please refer to consultation number 02EAAZ00-2015-I-0600. If we can be of further assistance, please contact Jason Douglas at (520) 670-6150 (x226), or Scott Richardson at (520) 670-6150 (x242).

Sincerely,

A handwritten signature in blue ink, appearing to read "Steven L. Spangie", is written over the printed name and title.

Steven L. Spangie
Field Supervisor

cc (hard copy):

Field Supervisor, Fish and Wildlife Service, Phoenix, Arizona (2 copies)
Assistant Field Supervisor, Fish and Wildlife Service, Tucson, AZ

cc (electronic copy):

Chairman, Ak Chin Indian Community, Maricopa, AZ
Chairman, White Mountain Apache Tribe, Whiteriver, AZ
Chairman, Fort McDowell Yavapai Nation, Fort McDowell, AZ
Chairman, Salt River Pima-Maricopa Indian Community, Scottsdale, AZ
Chairman, San Carlos Apache Tribe, San Carlos, AZ
Chairman, Gila River Indian Community, Sacaton, AZ
Chairman, Tohono O'odham Nation, Sells, AZ
Chairman, Pascua Yaqui Tribe, Tucson, AZ
Environmental Specialist, Environmental Services, Western Regional Office, Bureau of
Indian Affairs, Phoenix, AZ
Chief, Habitat Branch, Arizona Game and Fish Department, Phoenix, AZ (pep@azgfd.gov)
Raul Vega, Regional Supervisor, Arizona Game and Fish Department, Tucson, AZ

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United States Department of the Interior

U.S. Fish and Wildlife Service
2321 West Royal Palm Road, Suite 103
Phoenix, Arizona 85021-4951
Telephone: (602) 242-0210 FAX: (602) 242-2513



In Reply Refer to:

AESO/FA

July 9, 2004

Ms. Cindy Lester
Chief, Regulatory Branch
U.S. Army Corps of Engineers
3636 North Central Avenue, Suite 900
Phoenix, Arizona 85012-1939

Dear Ms. Lester:

Thank you for providing to the Fish and Wildlife Service Public Notice 2003-00826-SDM, dated May 17, 2004. Whetstone Partners LLP has submitted an application for a permit under Section 404 of the Clean Water Act (CWA) to construct the 8,000-acre Whetstone Ranch residential and commercial development in Benson, Cochise County, Arizona (Sections 31, 32, and 33, T17S, R20E). We apologize for submission of these comments after the close of the comment period. These comments are provided under authority of, and in accordance with, the Fish and Wildlife Coordination Act (48 Stat. 401, as amended U.S.C. 661 et. seq.) (FWCA), but do not constitute our final review under the FWCA.


As discussed in previous comments on similar public notices, we believe the total impact of authorized development should be analyzed, including direct, indirect, and cumulative effects, and all interrelated and interdependent activities. In particular, effects on the biological integrity of jurisdictional waters from activities above the ordinary high water mark should be assessed and mitigated. The footprint of authorized activity extends beyond the limits of jurisdictional waters and is, at minimum, the total acreage of proposed development.

We have received the June 14, 2004, letter submitted by the Environmental Protection Agency. We concur with the concerns raised in their letter including those pertaining to scope of analysis, alternatives analysis, and mitigation. Additionally, we are particularly concerned about potential effects to the ecosystems of the San Pedro River, which support a diverse array of fish and wildlife resources, including several threatened and endangered species.

Accordingly, we request the opportunity to review the 404(b)(1) alternatives analysis and mitigation plan prior to permit issuance, to fulfill our permit review responsibilities under the FWCA and CWA.

If we can be of further assistance please contact Mike Martinez (x224) or Don Metz (x217).

Sincerely,



Steven L. Spangle
Field Supervisor

cc: Regional Administrator, Environmental Protection Agency, San Francisco, CA
Supervisor, Project Evaluation Programs, Arizona Game and Fish Department, Phoenix, AZ

W:/MikeMartinez/Wheistone-pn:cgg

AESO/SE
02EAAZ00-2015-I-0600
02EAAZ00-2015-CPA-0021

July 14, 2015

Sallie Diebolt Chief, Arizona Branch
Department of the Army
Los Angeles District, Corps of Engineers
Arizona-Nevada Area Office
3636 North Central Avenue, Suite 900
Phoenix, Arizona 85012-1939

RE: Endangered Species Act Consultation on the Department of the Army Permit for
Whetstone Ranch as it Relates to the Villages at Vigneto, Cochise County, Arizona
(Permit Number 2003-00826-SDM)

Dear Ms. Diebolt:

We have become aware of a large residential development (28,000 dwelling units on approximately 12,324 acres, with associated commercial and recreational facilities) entitled The Villages at Vigneto, proposed to be constructed in the area partially covered by a Department of the Army Permit (Permit Number 2003-00826-SDM) signed on June 21, 2006. The 2006 permit authorized the discharge of dredged and/or fill material into 51 acres of waters of the United States and around unnamed washes in Sections 31, 32, and 33, Township 17 South, Range 20 East; and Sections 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, and 18, Township 18 South, Range 20 East, in Benson, Cochise County, Arizona. The discharges were permitted in order to develop the approximately 8,200-acre Whetstone Ranch as a master-planned community that was to include residential and commercial land uses, and associated stormwater management facilities, roadways, utilities, and recreational amenities. We have no records of interagency consultation pursuant to section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531-1544, *et seq.*) (Act) for the Villages at Vigneto. We do note, however, that the May 17, 2004, Public Notice for the previously-proposed Whetstone Ranch included a preliminary determination that the action, as proposed at that time, would not affect threatened or endangered species or their critical habitat.

This letter is to alert you that this project, under either the prior Whetstone Ranch or current Villages at Vigneto configuration, may affect two species that have been listed since your previous "no affect" determination; and (2) constitutes our official recommendation that you request interagency consultation on your permit issuance.

Sallie Diebolt Chief, Arizona Branch

Direct Effects

Western Yellow-billed Cuckoo

The western yellow-billed cuckoo was listed as threatened on October 3, 2014 (79 FR 59992); critical habitat for the species was proposed on August 15, 2014 (79 FR 48548). The upper San Pedro River is occupied by the largest population of yellow-billed cuckoos in Arizona and one of the largest in the western Distinct Population Segment (79 FR 59992). Proposed critical habitat exists along the river adjacent to the area subject to your June 21, 2006, permit. The species has been documented nesting in velvet mesquite (*Prosopis velutina*) woodlands approximately 0.8 kilometer (km) from the San Pedro River near Charleston (M. Halterman, pers. comm. 2015). Cuckoos exhibit large, undefended territories around the nest sites. Home ranges averaged 82 hectares (ha) in a study on the Rio Grande (Sechrist *et al.* 2009) and 51 ha in a study on the upper San Pedro River (Halterman 2009) using the Minimum Convex Polygon method. The species can travel greater than 1.7 km per day or greater than 3 km during the breeding season based on telemetry data (Sechrist *et al.* 2009).

We have examined aerial imagery of the project area and it appears that similarly suitable xeroriparian nesting and foraging habitat exists in the numerous ephemeral channels and portions of the uplands within the project area. Levick *et al.* (2008) includes descriptions of the ecological value of such ephemeral streams as well as information indicating that they are relatively more susceptible to disturbance than perennial streams.

Moreover, yellow-billed cuckoos have been documented breeding in Madrean evergreen woodland adjacent to ephemeral streams in the Patagonia Mountains (WestLand, Inc. 2013a and 2013b). Madrean evergreen woodlands also exist in the Whetstone Mountains immediately west of the project area, making it more likely that yellow-billed cuckoos occur in the intervening habitat between the mountain range and the San Pedro River, which necessarily includes the project area.

Yellow-billed cuckoo habitat exists in and adjacent to the project area and there is a reasonable likelihood that the species occurs on the site. We do not consider the partial avoidance and/or small buffering of ephemeral washes described in the *Habitat Mitigation and Monitoring Plan ACOE File No. 2003-00826-SDM Whetstone Ranch* (Whetstone HMMP) (WestLand 2005) to be sufficient to ensure there are no direct or indirect effects to yellow-billed cuckoo habitat on the development site.

It is for the reasons described above that we have determined that it is reasonably certain that the proposed action may directly affect the yellow-billed cuckoo. We strongly recommend that section 7 consultation be requested by your agency.

Northern Mexican Gartersnake

The northern Mexican gartersnake (*Thamnophis eques megalops*) was listed as threatened on July 8, 2014 (79 FR 38678); critical habitat was proposed on July 10, 2014 (79 FR 41550). The

Sallie Diebolt Chief, Arizona Branch

upper San Pedro River is considered occupied by the species, and proposed critical habitat exists along the river adjacent to the area subject to your June 21, 2006, permit. The species has been documented in semidesert grasslands up to 1 mile (1.6 km) from the nearest known aquatic sites on the Appleton-Whittell Research Ranch in the Babocomari River watershed (J. Servoss pers. comm. 2015). The species' presence in terrestrial habitat may be due, in part, to the presence of thermal cover and hibernacula and/or prey, including reptiles, toads, rodents, and invertebrates. There is a reasonable potential for the species to be present in the project area and/or for its habitat to be indirectly affected (as described in subsequent analyses).

Indirect Effects

We are also concerned with the potential indirect effects of the proposed action. The Act's implementing regulations at 50 CFR §402.02 define the action area to be assessed for potential impacts to listed species or critical habitat as "all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action." Further, the "effects of an action" are defined in 50 CFR §402.02 as "the direct and indirect effects of an action on the species or critical habitat, together with the effects of other activities that are interrelated or interdependent with that action," where interrelated actions are those that are "part of a larger action and depend on the larger action for their justification", and interdependent actions are those that "have no independent utility apart from the action under consideration." The regulations' background narrative (see Page 19932) specifically states that the "but for" test should be used to assess whether an activity is interrelated with or interdependent to the proposed action.

One category of indirect effects pertains to the potentially altered surficial hydrology of the site as it relates to the maintenance of aquatic, xeroriparian, and mesoriparian habitat in downstream areas (see Stromberg *et al.* 1996), including areas occupied by yellow-billed cuckoos and northern Mexican gartersnakes. Levick *et al.* (2006) investigated the potential impact of residential development of Whetstone Ranch - encompassed within the Villages at Vigneto project area – considering a negative impact to be any increase in surface runoff and sediment yield (Kepner *et al.* 2004). Anticipated adverse environmental consequences from such increases may include degraded water quality from sediment and pollutant transport, erosion and alteration of the stream channel, habitat destruction, decreased biological diversity, and increased flooding. The hydrologic modeling results found in Levick *et al.* (2006) indicated that significant increases in both runoff and sediment yield were likely at the San Pedro River main-stem under the Whetstone Ranch development scenario. Given the presence of yellow-billed cuckoos, northern Mexican gartersnakes, and the species' proposed critical habitats in the San Pedro River immediately downstream from the proposed development, we consider that the Whetstone Ranch proposal or the updated Villages at Vigneto proposal may affect these species and again strongly recommend that consultation be requested by your agency. We also note that, should such impacts propagate a sufficient distance downstream, they could also affect endangered southwestern willow flycatchers (*Empidonax traillii extimus*) and critical habitat on the middle and lower reaches of the San Pedro River.

The other category of indirect effects pertains to the withdrawal of groundwater to serve residential and commercial development at the project site. It is likely that an appreciable

Sallie Diebolt Chief, Arizona Branch

volume of groundwater will be required to serve the development. If we assume a per capita water demand of 118 gallons (0.132 acre-feet/per day (AFD)) (GUAC, 2006) and two residents per each of the 28,000 dwelling units, we would anticipate at least 7,400 acre feet per annum (AFA) (approximately) would be withdrawn from the groundwater basin. This groundwater pumping would not occur but for the residential development.

Haney and Lombard (2005) provided indirect evidence that the floodplain alluvial aquifer at Three Links Farm, a conservation property on the San Pedro River downstream of Benson, is maintained by interbasin transfer of groundwater from the Benson Area; local mountain-front recharge is of insufficient volume to explain the quantities of alluvial water present at the site. Baseline deficit groundwater pumping was estimated to be 1,300 AFA in 2002 (Arizona Department of Water Resources, personal communication as referenced in Haney and Lombard 2005) in the Benson sub-area of the Upper San Pedro groundwater basin in which the proposed project is situated. If the large groundwater withdrawals required to serve the Villages at Vigneto development curtails this presumed subflow, we anticipate adverse effects to yellow-billed cuckoos (and the cuckoo's proposed critical habitat) as well as southwestern willow flycatchers (and the flycatcher's critical habitat in the middle and potentially lower reaches of the San Pedro River). We again recommend that consultation be requested in order to address these effects to listed species and proposed and final critical habitats.

Effects of Interrelated and Interdependent Actions

We are not aware if the site is currently served by electric lines, though we completed informal consultation for a 65 kilovolt (Kv) power line intended to serve Whetstone Ranch on November 8, 2000 (File Number 22410-2001-I-0018). If this power line is intended solely to serve what is now known as the Villages at Vigneto development, it would lack independent utility. If the power line has not yet been constructed, its effects, if any, should be considered part of the proposed action.

The management of the off-site mitigation lands described in the Whetstone HMMP is inseparable from the development of the project site and is thus an interdependent action the proposed action. We have concerns and recommendations based on implementation of the interdependent HMMP.

Yellow-billed Cuckoo

The maps included within the Whetstone HMMP also display an off-site mitigation parcel adjacent to the San Pedro River. Activities at this parcel represent interrelated actions to the Whetstone Ranch/Villages at Vigneto proposal. The site contains western yellow-billed cuckoo habitat and is at least partially within proposed critical habitat. Various management activities are associated with the mitigation lands, including vegetation management. The Whetstone HMMP specifically proposes a program to remove saltcedar. Saltcedar, or tamarisk (*Tamarix* spp.) can serve as yellow-billed cuckoo habitat, particularly when interspersed with native xero- and mesoriparian plant species. This control program is not wholly beneficial, as it may affect cuckoos in the short term.

Sallie Diebolt Chief, Arizona Branch

Northern Mexican Gartersnake

We reiterate that the San Pedro River is considered occupied by northern Mexican gartersnakes, and has been proposed as critical habitat for the species. The uplands landward from the river also exhibit a high likelihood of northern Mexican gartersnake occurrence, and management activities may affect the species. We again recommend consultation be requested.

Other New Information

We also note that the project area for the Villages at Vigneto (12,324 acres) is appreciably larger than the area permitted for the Whetstone Ranch (8,200 acres) and thus, in addition to new analyses of effects to yellow-billed cuckoos, northern Mexican gartersnakes (and their proposed critical habitats), any effects to threatened or endangered species or their critical habitats previously analyzed by your agency in support of the June 21, 2006, permit decision should also be reconsidered in light of the larger affected area. These direct and indirect effects include, but are not limited to: (1) potential occurrence of panniculate agaves, the forage resource for the endangered lesser long-nosed bat (*Leptonycteris curasoae yerbabuenae*); and/or (2) the adjacency of the proposed action to designated critical habitat for the jaguar (*Panthera onca*) in the Whetstone Mountains.

It also appears that the appreciably expanded project area and the listings of the yellow-billed cuckoo and northern Mexican gartersnake and their respective proposed critical habitats, constitute significant new information as stated under Item 5(c) under the heading Further Information in your June 21, 2006, Department of the Army Permit. To summarize, Item 5 is entitled Reevaluation of Permit Decision, and states that your "... office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to..." The circumstance stated in Subsection c of Item 5 regards "...[s]ignificant new information surfaces which this office did not consider in reaching the original public interest decision."

Given this new information regarding effects to threatened and endangered species and critical habitat, as well as the appreciable increase in the scale of the project, we request said reevaluation of the permit decision. Moreover, we request notification of the reevaluation (i.e. a revised or new Public Notice) so that we may pursue our authorities under and in accordance with: (1) the Fish and Wildlife Coordination Act (48 Stat. 401, as amended U.S.C. 661 *et. seq.*); (2) Migratory Bird Treaty Act of 1918 (16 U.S.C. 703-712 40 Stat. 755, *et seq.*); and/or (3) the 1992 Clean Water Act section 404(q) Memorandum of Agreement between the Department of the Interior and the Department of the Army.

We are available to meet with you to discuss these issues. Please refer to file numbers 02EAAZ00-2015-I-0600 and 02EAAZ00-2015-CPA-0021 in any future contacts or correspondence.

Sallie Diebolt Chief, Arizona Branch

If we can be of further assistance, please contact Jason Douglas at 520-670-6150 (x226) or Jean Calhoun at 520-670-6050 (x223).

Sincerely,

Steven L. Spangle
Field Supervisor

cc (electronic):

Jean Calhoun, Assistant Field Supervisor, Fish and Wildlife Service, Tucson, AZ
Jason Brush, Wetlands Section Supervisor, Environmental Protection Agency, San Francisco, CA
Chief, Habitat Branch, Arizona Game and Fish Department, Phoenix, AZ (pep@azgfd.gov)
Raul Vega, Regional Supervisor, Arizona Game and Fish Department, Tucson, AZ

W:\Jason Douglas\Letter to USACE re Villages at Vigneto 2003-00826-SDM-JMD July 14, 2015.docx:cgg

Sallie Diebolt Chief, Arizona Branch

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Sallie Diebolt Chief, Arizona Branch

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From: [Jorjani, Daniel](#)
To: [Vander Voort, Faith](#)
Cc: [Interior Press](#)
Subject: Re: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it
Date: Monday, April 22, 2019 7:36:04 PM

Sounds like an ex-employee unhappy with a policy decision. Will check with the region to see if I can get more background before providing you a draft response.



Daniel H. Jorjani
Principal Deputy Solicitor
U.S. Department of the Interior
Main Interior Building, Suite 6356
202-219-3861 (Voice)
202-706-9018 (Cell)
daniel.jorjani@sol.doi.gov

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On Mon, Apr 22, 2019 at 7:24 PM Vander Voort, Faith <faith_vandervoort@ios.doi.gov> wrote:

Dan,
Please advise.

----- Forwarded message -----

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Date: Tue, Apr 16, 2019 at 6:02 PM
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Sorry about the error.

Sincerely,

Tony Davis

Arizona Daily Star

From: Davis, Tony

Sent: Tuesday, April 16, 2019 8:33 AM

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I am working on a

story based on a recent interview I had with Steve Spangle, who until his March 2018 retirement was for more than 15 years Field Supervisor for the U.S. Fish and Wildlife Service's Arizona Ecological Services office in

Phoenix. I am seeking
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Mr. Spangle’s first

letter, written Oct. 14, 2017, told the Corps, which was reviewing a previously issued, Section 404 Clean Water Act permit for Vigneto, that it had incorrectly determined that the project was unlikely to affect endangered species.

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the Clean Water Act permit weren't granted to Vigneto, no additional consultation, including that biological assessment, would be required. Because of the developer's position that the permit wasn't needed,

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Among the other issues he cited as influencing his feelings about the department were its decisions to shrink national monuments set aside by former President Obama, its loosening of

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Environmental
reporter

Arizona Daily Star

520-806-7746 o

520-349-0350 c

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Faith C. Vander Voort

Press Secretary & Senior Advisor to the Director of Communications
Department of the Interior

From: [Jorjani, Daniel](#)
To: [Roland Blackman](#); [Frank Lupo](#)
Subject: Fwd: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it
Date: Monday, April 22, 2019 7:37:41 PM
Attachments: [Spangle Oct. 14, 2016 Vigneto non-concurrence letter.pdf](#)
[Spangle Oct. 26, 2017 Vigneto concurrence letter to Corps.pdf](#)
[Spangle 2004 letter to Corps re Vigneto.pdf](#)
[Spangle 2015 letter to Corps re Vigneto consultation.pdf](#)

Roland and Frank - are you familiar with this FWS matter? First, I'm hearing of it.



Daniel H. Jorjani
Principal Deputy Solicitor
U.S. Department of the Interior
Main Interior Building, Suite 6356
202-219-3861 (Voice)
202-706-9018 (Cell)

daniel.jorjani@sol.doi.gov

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Environmental reporter

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Faith C. Vander Voort

Press Secretary & Senior Advisor to the Director of Communications
Department of the Interior



United States Department of the Interior

Fish and Wildlife Service
Arizona Ecological Services Office
9828 N. 31st Avenue Ste C3
Phoenix, AZ 85051

Telephone: (602) 242-0210 Fax: (602) 242-2513



AESO/SE

02EAAZ00-2015-I-0600

02EAAZ00-2015-CPA-0021

October 14, 2016

Sallie Diebolt
Chief, Arizona Branch
Department of the Army
Los Angeles District, Corps of Engineers
Arizona-Nevada Area Office
3636 North Central Avenue, Suite 900
Phoenix, Arizona 85012-1939

RE: Request for Endangered Species Act Consultation on the Offsite Mitigation Parcel for the Villages at Vigneto Development Project, Cochise County, Arizona (Permit Number 2003-00826-SD)

Dear Ms. Diebolt:

Thank you for your correspondence of April 12, 2016, received on April 12, 2016, requesting informal consultation pursuant to section 7 of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) (Act) on the proposed Offsite Mitigation Parcel for the Villages at Vigneto Development Project, Cochise County, Arizona (proposed mitigation action). Your April 12, 2016, letter also transmitted the December 18, 2015, *Biological Evaluation, Vigneto (aka Whetstone Ranch) Offsite Mitigation Parcel* (Mitigation Parcel BE), prepared by WestLand Resources, Inc. for El Dorado Benson, LLC. We are also in possession of the November 23, 2015, *Implementation Plans for the Whetstone Ranch Habitat Mitigation and Monitoring Plan - Corps File No. SPL-2003-00826-SDM, WestLand Project No. 460.76* (HMMP), the May 24, 2016, WestLand Resources and Hilgart-Wilson *Villages at Vigneto Final Community Master Plan and Development Plan* (Final CMP), and your July 20, 2016, Notice of Permit Suspension.

The U.S. Army Corps of Engineers (Corps) has requested concurrence from the U.S. Fish and Wildlife Service (FWS) that the proposed mitigation action may affect, but is not likely to adversely affect the threatened northern Mexican gartersnake (*Thamnophis eques megalops*), the threatened yellow-billed cuckoo (*Coccyzus americanus*), and the respective species' proposed critical habitat.

Based on the information you provided with your April 12, 2016, correspondence; our understanding of the proposed mitigation action and the Villages at Vigneto development; and information gathered during a September 8, 2016, site visit with you, your staff, and

Sallie Diebolt

representatives of WestLand Resources, Inc.; we do not concur with your determination that the proposed action may affect, but is not likely to affect these species and their respective proposed critical habitat.

Our rationale for non-concurrence appears below, and is followed by a request for additional information pursuant to the regulations governing section 7(a)(2) interagency consultation at 50 CFR §402.14.

Description of the Proposed Action

Activities proposed to be conducted on an offsite mitigation parcel were described in the December 18, 2015, Mitigation Parcel BE (incorporated herein via reference), and include: (1) removal of structures followed by soil ripping; (2) installation of 1,890 feet of fencing along an existing railroad right-of-way; (3) removal of weeds, tilling, and planting of native plant species, including container-grown mesquite (*Prosopis* spp.); (4) removal of construction debris and nonnative tamarisk (*Tamarix* spp.) and planting of native meso- and hydriparian trees around an existing artesian well and its existing wetland complex; (5) grading of and placement of gabion structures within eroding channels in the southwest portion of the parcel; and (6) planting 3,300 native mesquite and cottonwood trees throughout the mitigation parcel, including along the San Pedro River. All activities are proposed to be conducted between October 1 and April 15.

The Villages at Vigneto development project (formerly known as Whetstone Ranch) is a large residential development (28,000 dwelling units on approximately 12,167 acres, with associated commercial and recreational facilities) and is proposed to be constructed in the area partially covered by a prior Clean Water Act section 404 permit (Permit Number 2003-00826-SDM) signed on June 21, 2006. The 2006 permit authorized the discharge of dredged and/or fill material into 51 acres of waters of the United States and around unnamed washes in Sections 31, 32, and 33, Township 17 South, Range 20 East; and Sections 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, and 18, Township 18 South, Range 20 East, in Benson, Cochise County, Arizona. The discharges were permitted in order to develop the approximately 8,200-acre Whetstone Ranch (as the project was known at that time) as a master-planned community that would have included residential and commercial land uses, and associated stormwater management facilities, roadways, utilities, and recreational amenities. Most notably, the Final CMP (page 13) currently states that 20,000 dwelling units will be built on the 8,200 permitted acres. We also note that as of July 20, 2016, the Corps has suspended the June 21, 2006, Clean Water Act section 404 permit.

The proposed mitigation action is being implemented under the November 23, 2015, Villages at Vigneto (again, formerly Whetstone Ranch) Habitat Mitigation and Monitoring Plan (HMMP). The HMMP is intended to facilitate the proponent's compliance with Corps and Environmental Protection Agency (EPA) regulations governing compensatory mitigation for activities authorized by Department of the Army permits (CFR 33 C.F.R. § 332.1 through 332.83 and EPA 40 CFR § 230). Under 33 CFR § 332, which states that "Compensatory mitigation involves actions taken to offset unavoidable adverse impacts to wetlands, streams and other aquatic resources authorized by Clean Water Act section 404 permits and other Department of the Army (DA) permits, compensatory mitigation is a critical tool in helping the Federal government to

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meet the long standing national goal of 'no net loss' of wetland acreage and function. For impacts authorized under section 404, compensatory mitigation is not considered until after all appropriate and practicable steps have been taken to first avoid and then minimize adverse impacts to the aquatic ecosystem pursuant to 40 CFR part 230 (i.e., the Clean Water Act Section 404(b)(1) Guidelines)." The compensatory mitigation being implemented via the HMMP is thus a necessary and inseparable component of the June 21, 2006, Clean Water Act section 404 permit already issued for Whetstone Ranch (and to be used for the Villages at Vigneto development). Our understanding of the HMMP is that it directs the onsite preservation of 1,624 acres of property within the 8,200-acre Villages at Vigneto development (including waters of the United States and associated xeroriparian habitat) as well as the aforementioned proposed mitigation action.

Interrelated and interdependent actions are defined in the October 1, 2008, edition of the Act's implementing regulations at 50 CFR 402.02 (page 882), wherein it states that "Interrelated actions are those that are part of a larger action and depend on the larger action for their justification. Interdependent actions are those that have no independent utility apart from the action under consideration." The regulations' background narrative (see 51 FR 19926, page 19932) specifically states that the "but for" test should be used to assess whether an activity is interrelated with or interdependent to the proposed action. As stated above, the HMMP guides the implementation of the mitigation for the impacts to the waters of the US of the larger action, which is the Villages at Vigneto Development. It is therefore our opinion that the Corps' Clean Water Act section 404 permit for the Villages at Vigneto Development project should not have been issued (and cannot be released from its suspended status) *but for* the approval of the HMMP and thus, the proposed mitigation action is an interrelated action of the development.

Given the interrelatedness of the proposed development and mitigation actions, there exists a single action area, defined by the Act's implementing regulations at 50 CFR 402.02 (page 881) as "all areas to be affected by the Federal action and not merely the immediate area involved in the action" that encompasses both the development and mitigation parcels.

Furthermore, our review of the scientific literature and the proposed Villages at Vigneto Development, to which the mitigation action is interrelated, indicates that appreciable direct and indirect effects to threatened and endangered species, including proposed and final critical habitat, are reasonably certain to occur. For example, it is likely that an appreciable volume of groundwater will be withdrawn to serve the development. Such a displacement of groundwater from the aquifer is likely to reduce flow in the San Pedro River, in reaches designated as critical habitat for the southwestern willow flycatcher and proposed as critical habitat for the yellow-billed cuckoo and northern Mexican gartersnake.

Lastly, we note that the project area for the Villages at Vigneto (12,324 acres) as defined in the Final CMP is appreciably larger than the area permitted by the Corps on June 21, 2006, for Whetstone Ranch (8,200 acres); we are concerned that the action will be implemented in a piecemeal manner that does not include analyses of its full environmental impact.

In summary, we cannot initiate consultation pursuant to the Act until we receive a Biological Assessment for the development and mitigation projects that includes analyses of all direct and

Sallie Diebolt

indirect effects, including the effects of interrelated actions.

We remain available to meet with you to discuss these issues. Please refer to file numbers 02EAAZ00-2015-I-0600 and 02EAAZ00-2015-CPA-0021 in any future contacts or correspondence. If we can be of further assistance, please contact Jason Douglas at (520) 670-6150 (x226) or Jean Calhoun (520) 670-6050 (x223).

Sincerely,



Steven L. Spangle
Field Supervisor

cc (hard copy):

Field Supervisor, Fish and Wildlife Service, Phoenix, AZ

Jean Calhoun, Assistant Field Supervisor, Fish and Wildlife Service, Tucson, AZ

cc (electronic copy):

Jason Brush, Wetlands Section Supervisor, Environmental Protection Agency, San Francisco, CA

Chief, Habitat Branch, Arizona Game and Fish Department, Phoenix, AZ (pep@azgfd.gov)

Raul Vega, Regional Supervisor, Arizona Game and Fish Department, Tucson, AZ



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In Reply Refer to:

AESO/SE

02EAAZ00-2015-I-0600

02EAAZ00-2015-CPA-0021

October 26, 2017

Sallie Diebolt
Chief, Arizona Branch
Department of the Army
Los Angeles District, Corps of Engineers
Arizona-Nevada Area Office
3636 North Central Avenue, Suite 900
Phoenix, Arizona 85012-1939

RE: Request for Endangered Species Act Consultation on the Offsite Mitigation Parcel for the Villages at Vigneto Development, Cochise County, Arizona (Permit Number 2003-00826-SD)

Dear Ms. Diebolt:

Thank you for your correspondence of May 26, 2017, requesting informal consultation pursuant to section 7 of the Endangered Species Act (16 U.S.C. 1531 et seq.) (Act) on the proposed offsite mitigation parcel associated with your re-evaluation of the 2006 Clean Water Act section 404 permit for the Villages at Vigneto Development Project, Cochise County, Arizona (proposed action). Your May 26, 2017, letter transmitted the *Biological Evaluation for SPL-2003-00826* (May 2017 BE). Your May 26, 2017, letter seeks our concurrence with your determination that the proposed action may affect, but is not likely to adversely affect the western yellow-billed cuckoo (*Coccyzus americanus*) and, in conference, its proposed critical habitat; the southwestern willow flycatcher (*Empidonax traillii extimus*); and the northern Mexican gartersnake (*Thamnophis eques megalops*) and, in conference, its proposed critical habitat. We concur with your "may affect, not likely to adversely affect" determinations, as described below.

This letter supersedes our October 14, 2016, correspondence to you (File numbers: 02EAAZ00-2015-I-0600 and 02EAAZ00-2015-CPA-0021), in which we disagreed with your determinations with respect to the action area and effects of the proposed action. The contents of our October 14, 2016, letter, and other related correspondence are described in detail in the following correspondence history.

April 12, 2016: We received your request for informal consultation on the proposed Offsite Mitigation Parcel for the Villages at Vigneto Development Project. Your April 12, 2016, letter transmitted a now-superseded December 18, 2015, Biological Evaluation (December 2015 BE), Vigneto (aka Whetstone Ranch) Offsite Mitigation Parcel (April 2016 BE). Your May 26, 2017, correspondence and May 2017 BE supersede your April 12, 2016, letter and December 2015 BE, respectively.

July 21, 2016: We received a copy of your July 20, 2016, notice of permit suspension that you transmitted to El Dorado Holdings, Inc. (the permit applicant).

October 14, 2016: We transmitted a letter to you (File numbers: 02EAAZ00-2015-1-0600 and 02EAAZ00-2015-CPA-0021), in which we expressed “our opinion that the Corps’ Clean Water Act section 404 permit for the Villages at Vigneto Development project should not have been issued (and cannot be released from its suspended status) *but for* the approval of the HMMP and thus, the proposed mitigation action is an interrelated action of the development.” We also asserted that the proposed action should include analyses of the effects of residential development and its appreciable water use in addition to the effects of the Clean Water Act Section 404-related mitigation actions. Lastly, we expressed concerns regarding piecemeal implementation of a larger, 12,324-acre development area identified in development plans. Our October 14, 2016, assertions were based on our review of additional documents, including: (1) the November 23, 2015, *Implementation Plans for the Whetstone Ranch Habitat Mitigation and Monitoring Plan - Corps File No. SPL-2003-00826-SDM, WestLand Project No. 460.76* (HMMP); (2) the May 24, 2016, *WestLand Resources and Hilgart-Wilson Villages at Vigneto Final Community Master Plan and Development Plan* (Final CMP); and (3) your July 20, 2016, Notice of Permit Suspension.

September 25, 2017: We received your letter transmitting a September 14, 2017, letter from El Dorado Holdings, Inc. (the permit applicant), in which the applicant stated definitively that development of the site without a Clean Water Act section 404 permit is feasible from an engineering and land use perspective and that El Dorado will develop the site in this manner if needed.

We now defer to your definition of the action area and retract our October 14, 2016, letter. Our rationale for this deferral appears in the following narrative.

Appendix H of your May 2017 BE describes the manner in which the “No Federal Action” alternative required for the proposed action’s Clean Water Act Section 404 alternatives analysis and National Environmental Policy Act (NEPA) impact analysis was determined. Specifically, Appendix H documents your determination that the No Federal Action alternative for the development of the Villages at Vigneto is feasible based on the action’s substantive differences from the Lone Mountain Development, which was the subject of *Save Our Sonoran v. Flowers*, 408 F.3d 1113 (Ninth Circuit 2005). That case found that no development of that property could

occur without affecting Waters of the United States. Unlike the situation in the Lone Mountain Development, in this case you have asserted that the Villages at Vigneto development can and will occur without affecting Waters of the United States if you choose to not issue a Section 404 permit to the developer of the Villages at Vigneto. Appendix I of your May 2017 BE contains a detailed description of the No Federal Action development alternative for the Villages at Vigneto, stating that it is feasible. In brief, the No Federal Action alternative would be the development of the Villages at Vigneto property without any need to fill waters of the U.S. and therefore, no need to obtain a Clean Water Act Section 404 Permit. You thus determined that the only substantive difference between the No Federal Action alternative and the action under consultation in this review are the effects associated with the areas directly and indirectly affected by fill material and the implementation of Clean Water Act mitigation activities (i.e. the HMMP). There would be no interdependent and/or interrelated actions (i.e. development of 28,000 dwelling units, with associated commercial and recreational facilities, and the resulting water use), as a similar development (resulting in similar effects) could occur absent permit issuance. The September 14, 2017, El Dorado letter expands on the analysis found in Appendix I, and states definitively that the No Federal Action alternative is feasible from an engineering and land use perspective and that El Dorado will develop the site in this fashion if necessary.

In summary, we were previously consulting on the issuance of the permit on the proposed development, which we believed would enable the development. We subsequently received assurance from both the Corps and the applicant that the "no-permit" development is feasible and will in fact occur with or without a permit. Therefore, considering this new information in light of the language in our Section 7 Handbook (U.S. Fish and Wildlife Service (FWS), and National Marine Fisheries Service 1998, page 4-28), the Act's implementing regulations (50 CFR 402.02, page 881), and prior court findings [*Save Our Sonoran v. Flowers* as well as *National Wildlife Federation v. Coleman* (529 F.2d 359 Fifth Circuit, cert denied 429 U.S. 979 (1976))], without "but-for" causation we cannot evaluate the development itself as an interrelated or interdependent action.

Our October 14, 2016, letter also expressed our concerns with piecemeal development of a larger, 12,324-acre development described in the Final CMP. Your May 26, 2017, letter, stated that "development on the other approximately 4,000 acres might occur many years from now and have not yet been planned at a level to determine whether section 404 permits are necessary". We defer to your determination that the potential future development has independent utility relative to the proposed action presently under consultation (i.e. future development will not occur solely "but for" implementation of your current proposed action). Again, we concur with your species effects determinations, and our rationales appear in the species-by-species analyses below.

Description of the Proposed Action

The proposed action is described in detail in your May 2017 BE, and that description is incorporated herein by reference. In brief, the proposed action is the issuance of a Clean Water Act Section 404 permit for the discharge of dredged and/or fill material into 51 acres of Waters of the United States for development of the 8,200-acre Villages at Vigneto master planned community. The proposed action also includes implementation of a Habitat Mitigation and Monitoring Plan (HMMP, WestLand 2005 and Appendix A of the May 2016 BE; incorporated herein via reference) for an offsite mitigation parcel.

As outlined in the HMMP, which is required by the Permit, compensatory mitigation consists of: (1) onsite preservation of 1,624 acres of waters of the United States and associated xeroriparian habitat (in upland buffers adjacent to waters) within the 8,200-acre master planned community; and (2) the preservation, enhancement and restoration of a 144-acre offsite mitigation parcel along the San Pedro River (see BE Figure 1). Planned activities on the offsite area (BE Figure 2b) consist of restoration and enhancement work pursuant to the approved HMMP and are depicted in the Implementation Plans provided as BE Appendix A. The aforementioned descriptions of mitigation activities are incorporated herein via reference, but briefly, they include: (1) removal of structures; (2) installation of wildlife-friendly perimeter fencing; (3) management of fallow agricultural fields to support the development of a velvet mesquite (*Prosopis velutina*) bosque; (4) enhancement of habitat at a wetland complex associated with an artesian well; (5) stabilization of actively eroding channels on the site with further mesquite bosque restoration; and (6) planting of 3,300 native plants throughout the offsite area, including within the San Pedro River channel. All work associated with the mitigation activities planned within the offsite area will occur between October 1 and April 15 to avoid the potential nesting and migration season for yellow-billed cuckoo and southwestern willow flycatcher.

Yellow-billed Cuckoo and Proposed Critical Habitat

The western Distinct Population Segment of the yellow-billed cuckoo was listed as a threatened species under the Act on October 3, 2014 (79 FR 59992; FWS 2014a). We proposed critical habitat for the species on August 15, 2014 (79 FR 48548; FWS 2014b). Proposed critical habitat encompasses 546,335 acres across the western United States. Your May 2016 BE contains additional information regarding the rangewide status of the species and its status within the action area, and this is incorporated herein via reference.

Yellow-billed cuckoos have not been detected within the 1,624 acres of onsite preservation areas or within the 51 acres of waters of the United States that will be filled, though we note that only cursory, non-protocol-level surveys were conducted in and near these areas in 2016. Notwithstanding the incomplete survey history, it is unlikely that the 51 acres of fill will appreciably reduce the amount of yellow-billed cuckoo habitat within the ephemeral waters of the United States. Yellow-billed cuckoos that may be present in the 1,624 acres of onsite preservation areas will not be affected, as the preservation is a passive action with no potential to

alter the existing xeroriparian habitat. Protocol-level (Halterman *et al.* 2015) surveys were conducted in the 144-acre offsite mitigation area and there are two probable breeding territories documented on the mitigation site, with an additional six possible breeding territories in the vicinity. The offsite mitigation area is within yellow-billed cuckoo proposed critical habitat; the onsite preservation areas are not.

We concur that the proposed action is not likely to adversely affect the yellow-billed cuckoo or adversely modify or destroy its proposed critical habitat for the following reasons:

- The restoration activities within the offsite mitigation area will be conducted between October 1 and April 15. This is outside of the yellow-billed cuckoo breeding and migration season, thus avoiding effects to individuals of the species.
- The preservation of 1,624 acres of onsite habitat is a passive action and is likely to benefit yellow-billed cuckoos via the retention of the areas' existing xeroriparian habitat in an unaffected state.
- It is unlikely that the fill of 51 acres of Waters of the United States will result in measurable effects to xeroriparian habitat for yellow-billed cuckoos relative to the similar habitat contained within the 1,624 acres of onsite preservation areas. Therefore, these effects are insignificant because it is unlikely to measurably reduce the overall occurrence of xeroriparian habitat available to yellow-billed cuckoos within onsite areas.
- The restoration activities within the offsite mitigation area include the removal of tamarisk trees (*Tamarix* spp.), which will result in temporary negative effects to yellow-billed cuckoo proposed critical habitat Primary Constituent Element (PCE) 1 (riparian vegetation). However, we anticipate the planting of 3,300 native plants throughout the offsite mitigation area (see the HMMP) will minimize these temporary negative effects. The establishment of a mesquite bosque in the fallow agricultural fields, in particular, is anticipated to benefit the species by increasing the areal extent of yellow-billed cuckoo habitat.
- We do not anticipate measurable effects to PCE 2 (adequate prey base), given the replacement of tamarisk (already interspersed with native riparian species) with additional native riparian species, as we anticipate no appreciable difference in the availability of nesting substrate and/or prey base between the two riparian communities (Fleishman *et al.* 2003).
- We anticipate potential improvements to PCE 3 (dynamic riverine processes) via the arresting of active erosion on the offsite mitigation parcel and the planting of additional native riparian vegetation within the San Pedro River on the site.

Southwestern Willow Flycatcher

The southwestern willow flycatcher was listed as endangered, without critical habitat, on February 27, 1995 (60 FR 10694-10715; FWS 1995). A definitive determination of critical habitat was published on January 3, 2013 (78 FR 344; FWS 2013a). A complete description of the biology of the southwestern willow flycatcher is contained in the *Southwestern Willow Flycatcher Recovery Plan* (FWS 2002). The content of these documents is incorporated herein via reference.

The 1,624 acres of onsite preservation areas and 51 acres of waters of the United States that will be filled are xeric, and lack the mesic riparian vegetation in which southwestern willow flycatchers are known to breed. We anticipate the unaffected habitat in the 1,624 acre onsite preservation area will remain available to migrating and dispersing southwestern willow flycatchers. Portions of the 144-acre offsite mitigation area away from the San Pedro River are likely too xeric to support southwestern willow flycatcher breeding, but may be used for foraging areas for breeding birds nesting closer to the river and as stopover sites during migration; these areas will remain available for use by birds, as the replacement of nonnative tamarisk trees will be supplanted by structurally-similar native trees. The portion of the offsite mitigation area immediately adjacent to the San Pedro River does contain some suitable southwestern willow flycatcher breeding habitat in the form of tamarisk interspersed with Fremont cottonwood (*Populus fremontii*) and Goodding's willow (*Salix gooddingii*). We do not, however, anticipate that the conversion from a mixed native/nonnative riparian community to a predominately native riparian community will measurably change the amount of potential nesting substrates, prey base, or stopover sites (Fleishman *et al.* 2003). Protocol-level surveys (Sogge *et al.* 2010) have not been performed in either the onsite preservation areas or offsite mitigation area. Again, we do not anticipate the proposed actions in these areas would adversely affect riparian birds, including southwestern willow flycatchers, (Fleishman *et al.* 2003) because the restored habitat will remain capable of supporting nesting, foraging and/or migration to the same or greater extent than at present.

We concur that the proposed action is not likely to adversely affect the southwestern willow flycatcher or adversely modify or destroy its critical habitat for the following reasons:

- The 1,624 acres of onsite preservation areas and 51 acres of waters of the United States that will be filled lack southwestern willow flycatcher breeding habitat, and the onsite preservation area will continue to be available as a stopover site during migration. There will be no effects to individuals of the species in these areas.
- We do not anticipate measurable effects to southwestern willow flycatchers within the offsite mitigation area along the San Pedro River because it is nominally suitable for breeding, feeding, and sheltering of the species, and will remain so (or be enhanced) as native trees are established along the channel and planted in place of nonnative species throughout the site. We also anticipate potential improvements to riparian habitat condition via the arresting of active erosion within upland areas on the offsite mitigation

area. Conducting these activities between October 1 and April 15 will minimize the potential to disturb the migration and/or potential nesting attempts by southwestern willow flycatchers. Therefore, these effects are insignificant.

- Critical habitat does not exist in the action area; therefore, none will be affected.

Northern Mexican Gartersnake and Proposed Critical Habitat

The northern Mexican gartersnake's status is described in detail in the final rule listing the species as threatened (79 FR 38678) (FWS 2014c) and the proposed critical habitat rule (78 FR 41550) (FWS 2013b); these documents are incorporated herein via reference. The offsite mitigation area is within northern Mexican gartersnake proposed critical habitat; the Waters of the United States and onsite preservation areas are not.

The northern Mexican gartersnake is a cryptic, highly mobile species that occurs in intermittent and ephemeral aquatic habitats and adjacent terrestrial habitats in which sufficient prey resources are available. It is likely extant in low-density populations along the San Pedro River from the International Border to its confluence with the Gila River. The species has also been documented in semidesert grasslands up to 1 mile (1.6 km) from the nearest known aquatic sites on the Appleton-Whittell Research Ranch in the Babocomari River watershed (J. Servoss pers. comm. 2015). The species' presence in terrestrial habitat may be due, in part, to the presence of thermal cover and hibernacula and/or prey, including reptiles, toads, rodents, and invertebrates.

We concur that the proposed action is not likely to adversely affect the northern Mexican gartersnake or adversely modify or destroy its proposed critical habitat for the following reasons:

- Northern Mexican gartersnakes could occur on the offsite mitigation parcel, but the likelihood of the species' occurrence is appreciably reduced by the ephemeral hydrology of the San Pedro River and the presence of harmful and competitive species (i.e. bullfrogs and spiny-rayed fishes) in upstream perennial reaches (FWS 2013c). We further believe northern Mexican gartersnakes occur in low densities because the May 2016 BE, citing FWS 2013c and FWS 2014, states that the closest known record of the species is approximately 33 miles upstream from the offsite area and that of the thirteen records with known location information from the Upper San Pedro River, none are within approximately 25 river miles of the offsite area. The northern Mexican gartersnake is thus anticipated to occur in low densities in the area, potentially using the ephemeral channel of the San Pedro River to move between other intermittent and/or perennial reaches and/or using the artesian wetland for opportunistic foraging (i.e. during summer toad breeding activities).
- Implementation of the restoration and enhancement activities on the offsite mitigation parcel will benefit gartersnakes by conserving and enhancing existing aquatic and riparian habitat along the San Pedro River and at the artesian spring system. Restoration activities could theoretically negatively affect northern Mexican gartersnakes by disturbing them in hibernacula, including during inactive periods in the winter. We feel, however, that there

is an immeasurably low likelihood that this will occur, again due to the species' low likelihood of occurrence on the offsite mitigation area. Therefore, the effects of restoration activities are discountable in the short-term and beneficial to the species in the long-term.

- Both the Waters of the United States that will be filled and the onsite preservation areas are dry except during runoff events (ephemeral), and do not contain the habitat in which northern Mexican gartersnakes typically occur. The Waters of the United States and onsite preservation areas are also located over one mile from the artesian spring system in the offsite mitigation area, in which northern Mexican gartersnakes might occasionally occur in low densities; dispersal from the latter to the former is not likely. Moreover, in the unlikely event that northern Mexican gartersnakes potentially occurring in the artesian spring system do disperse greater than one mile into the uplands, the 1,624 acres of onsite preservation areas will remain available for foraging, despite the fill of 51 acres of ephemeral Waters of the United States. There will thus be no measurable effects to individuals of the species in these areas.
- We anticipate some improvements to proposed critical habitat PCE 1 and PCE 2 (aquatic habitat characteristics and terrestrial habitat characteristics, respectively) via the restoration of native riparian habitat along the San Pedro River and the area surrounding the artesian spring system. We anticipate modest beneficial effects to PCE 3 (prey base) from habitat restoration at the artesian spring site because improved riparian conditions could provide additional cover for toads, small reptiles, and other northern Mexican gartersnake prey.

In summary, we based our concurrence with your determinations on the effects occurring within an action area including only: (1) the fill of 51 acres of waters of the United States for development of the Villages at Vigneto; (2) onsite preservation of 1,624 acres of waters of the United States and adjacent xeroriparian habitat within the 8,200-acre master planned community; and (3) preservation, enhancement, and restoration of a 144-acre offsite mitigation parcel. We evaluated the aforementioned actions because, as stated in your May 26, 2016, letter, they will occur in areas subject to your control and responsibility. We deferred to your determination that the effects of your proposed action do not include the development of 28,000 dwelling units, with associated commercial and recreational facilities, and the resulting water use because a similar development and effects will occur absent your proposed action.

This concludes informal consultation for your proposed action and further serves as a conference report for the proposed critical habitat for the yellow-billed cuckoo and northern Mexican gartersnake. No further section 7 consultation is required for this project at this time. Should project plans change, or if information on the distribution or abundance of listed species or critical habitat becomes available, our determinations may need to be reconsidered.

In keeping with our trust responsibility to American Indian Tribes, when we enter into consultation with agencies not in the Departments of Interior or Commerce on a proposed action that may affect Indian lands, Tribal trust resources, or Tribal rights, we encourage you to invite the affected Tribes and the Bureau of Indian Affairs to participate in the consultation process and, by copy of this letter, are notifying the Tribes listed below. We also encourage you to continue to coordinate the review of this project with the Arizona Game and Fish Department.

In all future correspondence on this project, please refer to consultation number 02EAAZ00-2015-I-0600. If we can be of further assistance, please contact Jason Douglas at (520) 670-6150 (x226), or Scott Richardson at (520) 670-6150 (x242).

Sincerely,

A handwritten signature in blue ink, appearing to read "Steven L. Spangie", is written over the printed name and title.

Steven L. Spangie
Field Supervisor

cc (hard copy):

Field Supervisor, Fish and Wildlife Service, Phoenix, Arizona (2 copies)
Assistant Field Supervisor, Fish and Wildlife Service, Tucson, AZ

cc (electronic copy):

Chairman, Ak Chin Indian Community, Maricopa, AZ
Chairman, White Mountain Apache Tribe, Whiteriver, AZ
Chairman, Fort McDowell Yavapai Nation, Fort McDowell, AZ
Chairman, Salt River Pima-Maricopa Indian Community, Scottsdale, AZ
Chairman, San Carlos Apache Tribe, San Carlos, AZ
Chairman, Gila River Indian Community, Sacaton, AZ
Chairman, Tohono O'odham Nation, Sells, AZ
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In Reply Refer to:

AESO/FA

July 9, 2004

Ms. Cindy Lester
Chief, Regulatory Branch
U.S. Army Corps of Engineers
3636 North Central Avenue, Suite 900
Phoenix, Arizona 85012-1939

Dear Ms. Lester:

Thank you for providing to the Fish and Wildlife Service Public Notice 2003-00826-SDM, dated May 17, 2004. Whetstone Partners LLP has submitted an application for a permit under Section 404 of the Clean Water Act (CWA) to construct the 8,000-acre Whetstone Ranch residential and commercial development in Benson, Cochise County, Arizona (Sections 31, 32, and 33, T17S, R20E). We apologize for submission of these comments after the close of the comment period. These comments are provided under authority of, and in accordance with, the Fish and Wildlife Coordination Act (48 Stat. 401, as amended U.S.C. 661 et. seq.) (FWCA), but do not constitute our final review under the FWCA.


As discussed in previous comments on similar public notices, we believe the total impact of authorized development should be analyzed, including direct, indirect, and cumulative effects, and all interrelated and interdependent activities. In particular, effects on the biological integrity of jurisdictional waters from activities above the ordinary high water mark should be assessed and mitigated. The footprint of authorized activity extends beyond the limits of jurisdictional waters and is, at minimum, the total acreage of proposed development.

We have received the June 14, 2004, letter submitted by the Environmental Protection Agency. We concur with the concerns raised in their letter including those pertaining to scope of analysis, alternatives analysis, and mitigation. Additionally, we are particularly concerned about potential effects to the ecosystems of the San Pedro River, which support a diverse array of fish and wildlife resources, including several threatened and endangered species.

Accordingly, we request the opportunity to review the 404(b)(1) alternatives analysis and mitigation plan prior to permit issuance, to fulfill our permit review responsibilities under the FWCA and CWA.

If we can be of further assistance please contact Mike Martinez (x224) or Don Metz (x217).

Sincerely,



Steven L. Spangle
Field Supervisor

cc: Regional Administrator, Environmental Protection Agency, San Francisco, CA
Supervisor, Project Evaluation Programs, Arizona Game and Fish Department, Phoenix, AZ

W:/MikeMartinez/Wheistone-pn:cgg

AESO/SE
02EAAZ00-2015-I-0600
02EAAZ00-2015-CPA-0021

July 14, 2015

Sallie Diebolt Chief, Arizona Branch
Department of the Army
Los Angeles District, Corps of Engineers
Arizona-Nevada Area Office
3636 North Central Avenue, Suite 900
Phoenix, Arizona 85012-1939

RE: Endangered Species Act Consultation on the Department of the Army Permit for
Whetstone Ranch as it Relates to the Villages at Vigneto, Cochise County, Arizona
(Permit Number 2003-00826-SDM)

Dear Ms. Diebolt:

We have become aware of a large residential development (28,000 dwelling units on approximately 12,324 acres, with associated commercial and recreational facilities) entitled The Villages at Vigneto, proposed to be constructed in the area partially covered by a Department of the Army Permit (Permit Number 2003-00826-SDM) signed on June 21, 2006. The 2006 permit authorized the discharge of dredged and/or fill material into 51 acres of waters of the United States and around unnamed washes in Sections 31, 32, and 33, Township 17 South, Range 20 East; and Sections 3, 4, 5, 6, 7, 8, 9, 10, 15, 16, 17, and 18, Township 18 South, Range 20 East, in Benson, Cochise County, Arizona. The discharges were permitted in order to develop the approximately 8,200-acre Whetstone Ranch as a master-planned community that was to include residential and commercial land uses, and associated stormwater management facilities, roadways, utilities, and recreational amenities. We have no records of interagency consultation pursuant to section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531-1544, *et seq.*) (Act) for the Villages at Vigneto. We do note, however, that the May 17, 2004, Public Notice for the previously-proposed Whetstone Ranch included a preliminary determination that the action, as proposed at that time, would not affect threatened or endangered species or their critical habitat.

This letter is to alert you that this project, under either the prior Whetstone Ranch or current Villages at Vigneto configuration, may affect two species that have been listed since your previous "no affect" determination; and (2) constitutes our official recommendation that you request interagency consultation on your permit issuance.

Sallie Diebolt Chief, Arizona Branch

Direct Effects

Western Yellow-billed Cuckoo

The western yellow-billed cuckoo was listed as threatened on October 3, 2014 (79 FR 59992); critical habitat for the species was proposed on August 15, 2014 (79 FR 48548). The upper San Pedro River is occupied by the largest population of yellow-billed cuckoos in Arizona and one of the largest in the western Distinct Population Segment (79 FR 59992). Proposed critical habitat exists along the river adjacent to the area subject to your June 21, 2006, permit. The species has been documented nesting in velvet mesquite (*Prosopis velutina*) woodlands approximately 0.8 kilometer (km) from the San Pedro River near Charleston (M. Halterman, pers. comm. 2015). Cuckoos exhibit large, undefended territories around the nest sites. Home ranges averaged 82 hectares (ha) in a study on the Rio Grande (Sechrist *et al.* 2009) and 51 ha in a study on the upper San Pedro River (Halterman 2009) using the Minimum Convex Polygon method. The species can travel greater than 1.7 km per day or greater than 3 km during the breeding season based on telemetry data (Sechrist *et al.* 2009).

We have examined aerial imagery of the project area and it appears that similarly suitable xeroriparian nesting and foraging habitat exists in the numerous ephemeral channels and portions of the uplands within the project area. Levick *et al.* (2008) includes descriptions of the ecological value of such ephemeral streams as well as information indicating that they are relatively more susceptible to disturbance than perennial streams.

Moreover, yellow-billed cuckoos have been documented breeding in Madrean evergreen woodland adjacent to ephemeral streams in the Patagonia Mountains (WestLand, Inc. 2013a and 2013b). Madrean evergreen woodlands also exist in the Whetstone Mountains immediately west of the project area, making it more likely that yellow-billed cuckoos occur in the intervening habitat between the mountain range and the San Pedro River, which necessarily includes the project area.

Yellow-billed cuckoo habitat exists in and adjacent to the project area and there is a reasonable likelihood that the species occurs on the site. We do not consider the partial avoidance and/or small buffering of ephemeral washes described in the *Habitat Mitigation and Monitoring Plan ACOE File No. 2003-00826-SDM Whetstone Ranch* (Whetstone HMMP) (WestLand 2005) to be sufficient to ensure there are no direct or indirect effects to yellow-billed cuckoo habitat on the development site.

It is for the reasons described above that we have determined that it is reasonably certain that the proposed action may directly affect the yellow-billed cuckoo. We strongly recommend that section 7 consultation be requested by your agency.

Northern Mexican Gartersnake

The northern Mexican gartersnake (*Thamnophis eques megalops*) was listed as threatened on July 8, 2014 (79 FR 38678); critical habitat was proposed on July 10, 2014 (79 FR 41550). The

Sallie Diebolt Chief, Arizona Branch

upper San Pedro River is considered occupied by the species, and proposed critical habitat exists along the river adjacent to the area subject to your June 21, 2006, permit. The species has been documented in semidesert grasslands up to 1 mile (1.6 km) from the nearest known aquatic sites on the Appleton-Whittell Research Ranch in the Babocomari River watershed (J. Servoss pers. comm. 2015). The species' presence in terrestrial habitat may be due, in part, to the presence of thermal cover and hibernacula and/or prey, including reptiles, toads, rodents, and invertebrates. There is a reasonable potential for the species to be present in the project area and/or for its habitat to be indirectly affected (as described in subsequent analyses).

Indirect Effects

We are also concerned with the potential indirect effects of the proposed action. The Act's implementing regulations at 50 CFR §402.02 define the action area to be assessed for potential impacts to listed species or critical habitat as "all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action." Further, the "effects of an action" are defined in 50 CFR §402.02 as "the direct and indirect effects of an action on the species or critical habitat, together with the effects of other activities that are interrelated or interdependent with that action," where interrelated actions are those that are "part of a larger action and depend on the larger action for their justification", and interdependent actions are those that "have no independent utility apart from the action under consideration." The regulations' background narrative (see Page 19932) specifically states that the "but for" test should be used to assess whether an activity is interrelated with or interdependent to the proposed action.

One category of indirect effects pertains to the potentially altered surficial hydrology of the site as it relates to the maintenance of aquatic, xeroriparian, and mesoriparian habitat in downstream areas (see Stromberg *et al.* 1996), including areas occupied by yellow-billed cuckoos and northern Mexican gartersnakes. Levick *et al.* (2006) investigated the potential impact of residential development of Whetstone Ranch - encompassed within the Villages at Vigneto project area – considering a negative impact to be any increase in surface runoff and sediment yield (Kepner *et al.* 2004). Anticipated adverse environmental consequences from such increases may include degraded water quality from sediment and pollutant transport, erosion and alteration of the stream channel, habitat destruction, decreased biological diversity, and increased flooding. The hydrologic modeling results found in Levick *et al.* (2006) indicated that significant increases in both runoff and sediment yield were likely at the San Pedro River main-stem under the Whetstone Ranch development scenario. Given the presence of yellow-billed cuckoos, northern Mexican gartersnakes, and the species' proposed critical habitats in the San Pedro River immediately downstream from the proposed development, we consider that the Whetstone Ranch proposal or the updated Villages at Vigneto proposal may affect these species and again strongly recommend that consultation be requested by your agency. We also note that, should such impacts propagate a sufficient distance downstream, they could also affect endangered southwestern willow flycatchers (*Empidonax traillii extimus*) and critical habitat on the middle and lower reaches of the San Pedro River.

The other category of indirect effects pertains to the withdrawal of groundwater to serve residential and commercial development at the project site. It is likely that an appreciable

Sallie Diebolt Chief, Arizona Branch

volume of groundwater will be required to serve the development. If we assume a per capita water demand of 118 gallons (0.132 acre-feet/per day (AFD)) (GUAC, 2006) and two residents per each of the 28,000 dwelling units, we would anticipate at least 7,400 acre feet per annum (AFA) (approximately) would be withdrawn from the groundwater basin. This groundwater pumping would not occur but for the residential development.

Haney and Lombard (2005) provided indirect evidence that the floodplain alluvial aquifer at Three Links Farm, a conservation property on the San Pedro River downstream of Benson, is maintained by interbasin transfer of groundwater from the Benson Area; local mountain-front recharge is of insufficient volume to explain the quantities of alluvial water present at the site. Baseline deficit groundwater pumping was estimated to be 1,300 AFA in 2002 (Arizona Department of Water Resources, personal communication as referenced in Haney and Lombard 2005) in the Benson sub-area of the Upper San Pedro groundwater basin in which the proposed project is situated. If the large groundwater withdrawals required to serve the Villages at Vigneto development curtails this presumed subflow, we anticipate adverse effects to yellow-billed cuckoos (and the cuckoo's proposed critical habitat) as well as southwestern willow flycatchers (and the flycatcher's critical habitat in the middle and potentially lower reaches of the San Pedro River). We again recommend that consultation be requested in order to address these effects to listed species and proposed and final critical habitats.

Effects of Interrelated and Interdependent Actions

We are not aware if the site is currently served by electric lines, though we completed informal consultation for a 65 kilovolt (Kv) power line intended to serve Whetstone Ranch on November 8, 2000 (File Number 22410-2001-I-0018). If this power line is intended solely to serve what is now known as the Villages at Vigneto development, it would lack independent utility. If the power line has not yet been constructed, its effects, if any, should be considered part of the proposed action.

The management of the off-site mitigation lands described in the Whetstone HMMP is inseparable from the development of the project site and is thus an interdependent action the proposed action. We have concerns and recommendations based on implementation of the interdependent HMMP.

Yellow-billed Cuckoo

The maps included within the Whetstone HMMP also display an off-site mitigation parcel adjacent to the San Pedro River. Activities at this parcel represent interrelated actions to the Whetstone Ranch/Villages at Vigneto proposal. The site contains western yellow-billed cuckoo habitat and is at least partially within proposed critical habitat. Various management activities are associated with the mitigation lands, including vegetation management. The Whetstone HMMP specifically proposes a program to remove saltcedar. Saltcedar, or tamarisk (*Tamarix* spp.) can serve as yellow-billed cuckoo habitat, particularly when interspersed with native xero- and mesoriparian plant species. This control program is not wholly beneficial, as it may affect cuckoos in the short term.

Sallie Diebolt Chief, Arizona Branch

Northern Mexican Gartersnake

We reiterate that the San Pedro River is considered occupied by northern Mexican gartersnakes, and has been proposed as critical habitat for the species. The uplands landward from the river also exhibit a high likelihood of northern Mexican gartersnake occurrence, and management activities may affect the species. We again recommend consultation be requested.

Other New Information

We also note that the project area for the Villages at Vigneto (12,324 acres) is appreciably larger than the area permitted for the Whetstone Ranch (8,200 acres) and thus, in addition to new analyses of effects to yellow-billed cuckoos, northern Mexican gartersnakes (and their proposed critical habitats), any effects to threatened or endangered species or their critical habitats previously analyzed by your agency in support of the June 21, 2006, permit decision should also be reconsidered in light of the larger affected area. These direct and indirect effects include, but are not limited to: (1) potential occurrence of panniculate agaves, the forage resource for the endangered lesser long-nosed bat (*Leptonycteris curasoae yerbabuenae*); and/or (2) the adjacency of the proposed action to designated critical habitat for the jaguar (*Panthera onca*) in the Whetstone Mountains.

It also appears that the appreciably expanded project area and the listings of the yellow-billed cuckoo and northern Mexican gartersnake and their respective proposed critical habitats, constitute significant new information as stated under Item 5(c) under the heading Further Information in your June 21, 2006, Department of the Army Permit. To summarize, Item 5 is entitled Reevaluation of Permit Decision, and states that your "... office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to..." The circumstance stated in Subsection c of Item 5 regards "...[s]ignificant new information surfaces which this office did not consider in reaching the original public interest decision."

Given this new information regarding effects to threatened and endangered species and critical habitat, as well as the appreciable increase in the scale of the project, we request said reevaluation of the permit decision. Moreover, we request notification of the reevaluation (i.e. a revised or new Public Notice) so that we may pursue our authorities under and in accordance with: (1) the Fish and Wildlife Coordination Act (48 Stat. 401, as amended U.S.C. 661 *et. seq.*); (2) Migratory Bird Treaty Act of 1918 (16 U.S.C. 703-712 40 Stat. 755, *et seq.*); and/or (3) the 1992 Clean Water Act section 404(q) Memorandum of Agreement between the Department of the Interior and the Department of the Army.

We are available to meet with you to discuss these issues. Please refer to file numbers 02EAAZ00-2015-I-0600 and 02EAAZ00-2015-CPA-0021 in any future contacts or correspondence.

Sallie Diebolt Chief, Arizona Branch

If we can be of further assistance, please contact Jason Douglas at 520-670-6150 (x226) or Jean Calhoun at 520-670-6050 (x223).

Sincerely,

Steven L. Spangle
Field Supervisor

cc (electronic):

Jean Calhoun, Assistant Field Supervisor, Fish and Wildlife Service, Tucson, AZ
Jason Brush, Wetlands Section Supervisor, Environmental Protection Agency, San Francisco, CA
Chief, Habitat Branch, Arizona Game and Fish Department, Phoenix, AZ (pep@azgfd.gov)
Raul Vega, Regional Supervisor, Arizona Game and Fish Department, Tucson, AZ

W:\Jason Douglas\Letter to USACE re Villages at Vigneto 2003-00826-SDM-JMD July 14, 2015.docx:cgg

Sallie Diebolt Chief, Arizona Branch

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Sallie Diebolt Chief, Arizona Branch

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From: [Lupo, Frank](#)
To: daniel.jorjani@sol.doi.gov
Subject: Away from office Re: Fwd: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it
Date: Monday, April 22, 2019 7:38:27 PM

I am out of the office and will return on April 29. I will be checking email periodically during this time and will respond to your message as soon as possible.

--

~~~~~  
Frank Lupo  
Assistant Regional Solicitor  
(505) 248-5611  
(505) 248-5623 (fax)  
~~~~~

This e-mail (including any attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient or the employee or agent responsible for the delivery of this e-mail to the intended recipient, you are hereby notified that any dissemination, distribution, copying or use of this e-mail or its contents is strictly prohibited. If you received this e-mail in error, please notify the sender immediately and destroy all copies.

From: [Jorjani, Daniel](#)
To: [Roland Blackman](#); [Frank Lupo](#)
Subject: Re: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it
Date: Monday, April 22, 2019 7:43:14 PM

Hi Roland- If Frank is out of the office, can you check with someone on his team or with Rebekah for a general backgrounder on the issue. Not time sensitive. Thank you. Dan

On Mon, Apr 22, 2019 at 7:37 PM Jorjani, Daniel <daniel.jorjani@sol.doi.gov> wrote:
Roland and Frank - are you familiar with this FWS matter? First, I'm hearing of it.

----- Forwarded message -----

From: **Vander Voort, Faith** <faith_vandervoort@ios.doi.gov>
Date: Mon, Apr 22, 2019 at 7:24 PM
Subject: Fwd: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it
To: Daniel Jorjani <daniel.jorjani@sol.doi.gov>
Cc: Interior Press <interior_press@ios.doi.gov>

Dan,
Please advise.

----- Forwarded message -----

From: **Davis, Tony** <TDavis@tucson.com>
Date: Tue, Apr 16, 2019 at 6:02 PM
Subject: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it
To: interior_press@ios.doi.gov <interior_press@ios.doi.gov>

To the Interior Department's Office of Communications,

I am sending a second email to correct a factual error from my first email. I said in that email that Spangle wrote two letters on the Villages at Vigneto project to the Army Corps in Oct. 2017. Actually, the two letters were written in October 2016 and October 2017. The other two letters that I sent earlier were written by Spangle in 2004 and 2015.

Sorry about the error.

Sincerely,

Tony Davis

Arizona Daily Star

From: Davis, Tony

Sent: Tuesday, April 16, 2019 8:33 AM

To: interior_press@ios.doi.gov

Subject: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it

To the Office of
Communications
U.S. Department of
Interior:

I am working on a

story based on a recent interview I had with Steve Spangle, who until his March 2018 retirement was for more than 15 years Field Supervisor for the U.S. Fish and Wildlife Service's Arizona Ecological Services office in

Phoenix. I am seeking
some comments from
the Interior

Department solicitor's
office or from the
broader department on
Mr. Spangle's
comments regarding
the service's decision
to reverse its stand on
a major new

development in
Southern Arizona.

My questions pertain
to two letters that Mr.
Spangle sent the U.S.
Army Corps of
Engineers back in Oct.
2017 regarding the
Vllages at Vigneto, a
planned, 28,000-home
development in

Benson, a town of about 5,000 people about an hour's drive east of Tucson. I have attached those letters, along with two other, relevant letters on the development that he'd written in earlier years.

He told me that back in October 2017, he

received political pressure, indirectly, from top-level Interior Department officials to reverse himself on a crucial letter he'd previously written, pertaining to Vigneto development in Benson, Arizona he had written the Army

Corps of Engineers
earlier that month. He
said that it was
strongly suggested to
him that if he knew
what was good for him
politically, he would
reverse himself. So he
did. But he made it
clear to me that when
he reversed himself, he

didn't personally believe in what he was doing. He said that he was "rolled" by higherups at the department over this issue.

He told me he'd received the message that he should reverse himself from an

attorney in Interior's Solicitor's office. He declined to name that person because he said the attorney is a friend.

“I made a decision that was in my purview to make. I was overruled by somebody who didn't have my kind of experience,” he told

me. “I want to distinguish it from making a policy call based on fact, as opposed to making a policy call based on politics; I had a strong feeling this was a political decision on their part.”

Mr. Spangle’s first

letter, written Oct. 14, 2017, told the Corps, which was reviewing a previously issued, Section 404 Clean Water Act permit for Vigneto, that it had incorrectly determined that the project was unlikely to affect endangered species.

He wrote that the development could affect the Western yellow-billed cuckoo and the Northern Mexican gartersnake, and ordered the Corps to conduct a full-scale biological assessment of the project as part of a consultation with

the wildlife service on the development.

Then on Oct. 26, 2017, Mr. Spangle reversed himself and wrote a followup letter to the Corps, saying that because the developer had said that the project could and would be built even if

the Clean Water Act permit weren't granted to Vigneto, no additional consultation, including that biological assessment, would be required. Because of the developer's position that the permit wasn't needed,

Mr. Spangle said that only the impacts of the development's building in or near washes needed to be studied, and that had already been done in an informal consultation, in which he accepted the Corps' findings that this work

isn't likely to affect
endangered species.

His reversal meant that
the impacts of the
entire project — which
would include
groundwater pumping
to serve the
development —
wouldn't be reviewed.

He said the question

he has asked himself about this issue – and still hasn't been able to answer – is why the developer is applying for the 404 permit if it doesn't believe it needs one to build the project. He said that higherups in Washington cited a

court case to back up their view, but he didn't think it applied in the case of Vigneto.

He told me, "When I got the call that day, the first word I got from the attorney in the solicitor's office was, 'I just got a call from a very high

political person in the department.’ She wouldn’t reveal the name. It was a politically manipulated motivation of the system.

“She said she was strongly encouraged to call me and point out the error of my ways. I

wasn't ordered to
rescind my letter. I
was advised that it was
the right thing to do.

“In my job, I work for
the administration.
The administration's
position takes
precedence over
mine.”

But he also told me that in his tenure as FWS Arizona ES field supervisor and in his entire 29-year career at the wildlife service, he had never before experienced political pressure from D.C. higherups and had never been overruled

before by Washington-based administration officials. That record dates back to the Ronald Reagan presidency, he noted to me.

I'm writing to seek Interior's comments on Mr. Spangle's remarks. Was he

essentially overruled
by higherups at the
department and
strongly urged to
reverse his position, as
he said to me? Was
there political pressure
put on him to reverse
his stance? Also, was
then-Deputy Secretary
David Bernhardt

involved in any way in helping advance the case for changing the department's stance on this matter?

He also said the Vigneto case and what he viewed as a growing anti-environmental stance at the Interior

Department were contributing factors in his decision to accept a buyout from the department and retire when he did, although he also acknowledged that at age 64 at the time, he was at the point where he was ready to go reasonably

soon.

Among the other issues he cited as influencing his feelings about the department were its decisions to shrink national monuments set aside by former President Obama, its loosening of

restrictions on oil drilling and public lands and its reversal of its longstanding position that the federal Migratory Bird Treaty Act could be enforced on parties such as mine open pits that unintentionally kill birds.

“The department is now much more anti-regulatory and much more anti-environment,” he said.

“The whole direction of the Department of the Interior was going in absolutely the opposite direction of where I thought it

should, on many issues.”

If DOI could get back to me with a response to any and/or all of Mr. Spangle’s comments by Thursday, I would greatly appreciate that. I am hoping to publish an article based on my

interview with him
and your responses in
the upcoming Sunday
editions of the Star.

Sincerely,

Tony Davis

Environmental
reporter

Arizona Daily Star

520-806-7746 o

520-349-0350 c

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Faith C. Vander Voort

Press Secretary & Senior Advisor to the Director of Communications
Department of the Interior

From: [Roland Blackman](#)
To: [Jorjani, Daniel](#)
Cc: [Frank Lupo](#)
Subject: Re: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it
Date: Monday, April 22, 2019 7:47:37 PM

Will do. We will follow up with you on this.

Best,

Roland Blackman
(202) 520-1924
Sent from my iPhone

On Apr 22, 2019, at 5:43 PM, Jorjani, Daniel <daniel.jorjani@sol.doi.gov> wrote:

Hi Roland- If Frank is out of the office, can you check with someone on his team or with Rebekah for a general backgrounder on the issue. Not time sensitive.
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From: **Vander Voort, Faith** <faith_vandervoort@ios.doi.gov>
Date: Mon, Apr 22, 2019 at 7:24 PM
Subject: Fwd: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it
To: Daniel Jorjani <daniel.jorjani@sol.doi.gov>
Cc: Interior Press <interior_press@ios.doi.gov>

Dan,
Please advise.

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Date: Tue, Apr 16, 2019 at 6:02 PM
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Arizona Daily Star

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Sent: Tuesday, April 16, 2019 8:33 AM

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Mr. Spangle’s first letter, written Oct. 14, 2017, told the Corps, which was reviewing a previously issued, Section 404 Clean Water Act permit for Vigneto, that it had incorrectly

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520-806-7746 o

520-349-0350 c

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Press Secretary & Senior Advisor to the Director of Communications
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From: [Jorjani, Daniel](#)
To: [Roland Blackman](#)
Cc: [Frank Lupo](#)
Subject: Re: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it
Date: Monday, April 22, 2019 7:48:06 PM

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From: [Frank Lupo](#)
To: [Jorjani, Daniel](#); justin.tade@sol.doi.gov
Cc: [Roland Blackman](#)
Subject: Re: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it
Date: Monday, April 22, 2019 7:58:22 PM

Justin-

See trailing messages below about Vigneto. Can you work with Roland on a short summary suitable for Dan? Ideally I think we should provide a written summary to get him up to speed and then be available via phone for follow up questions.

Dan-

Justin Tade is the regional attorney with the most direct knowledge of the Vigneto consultation. He can provide a synopsis and then answer any remaining questions. He should also review any public statements before released to Mr. Davis.

Thanks-
Frank

Sent from my iPad

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Sincerely,

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Arizona Daily
Star

520-806-7746 o

520-349-0350 c

--

Faith C. Vander Voort

Press Secretary & Senior Advisor to the Director of
Communications
Department of the Interior

From: [Jorjani, Daniel](#)
To: [Frank Lupo](#)
Cc: [Justin Tade](#); [Roland Blackman](#)
Subject: Re: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it
Date: Monday, April 22, 2019 8:17:14 PM

Frank - much appreciated.

On Mon, Apr 22, 2019 at 7:58 PM Frank Lupo <frank.lupo@sol.doi.gov> wrote:

Justin-

See trailing messages below about Vigneto. Can you work with Roland on a short summary suitable for Dan? Ideally I think we should provide a written summary to get him up to speed and then be available via phone for follow up questions.

Dan-

Justin Tade is the regional attorney with the most direct knowledge of the Vigneto consultation. He can provide a synopsis and then answer any remaining questions. He should also review any public statements before released to Mr. Davis.

Thanks-

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First, I'm hearing of it.

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Date: Mon, Apr 22, 2019 at 7:24 PM

Subject: Fwd: [EXTERNAL] FW: Query from Tony Davis,
Arizona Daily Star, on the Vigneto case and Steve Spangle's
comments on it

To: Daniel Jorjani <daniel.jorjani@sol.doi.gov>

Cc: Interior Press <interior_press@ios.doi.gov>

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Please advise.

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“In my job, I work for the administration. The administration’s position takes precedence over mine.”

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Was there
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Also, was then-
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He also said the
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Among the
other issues he
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the department

were its
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monuments set
aside by former
President
Obama, its
loosening of
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oil drilling and
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and its reversal
of its
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“The
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From: [Vander Voort, Faith](#)
To: [Jorjani, Daniel](#)
Cc: [Interior Press](#)
Subject: Re: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it
Date: Tuesday, April 23, 2019 7:35:33 AM

Thank you, Dan.

On Mon, Apr 22, 2019 at 7:36 PM Jorjani, Daniel <daniel.jorjani@sol.doi.gov> wrote:
Sounds like an ex-employee unhappy with a policy decision. Will check with the region to see if I can get more background before providing you a draft response.



Daniel H. Jorjani
Principal Deputy Solicitor
U.S. Department of the Interior
Main Interior Building, Suite 6356
202-219-3861 (Voice)
202-706-9018 (Cell)

daniel.jorjani@sol.doi.gov

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To the Office of
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I am working on a

story based on a recent interview I had with Steve Spangle, who until his March 2018 retirement was for more than 15 years Field Supervisor for the U.S. Fish and Wildlife Service's Arizona Ecological Services office in

Phoenix. I am seeking
some comments from
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office or from the
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My questions pertain
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along with two other,
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years.

He told me that back in October 2017, he received political pressure, indirectly, from top-level Interior Department officials to reverse himself on a crucial letter he'd previously written, pertaining to Vigneto development in

Benson, Arizona he had written the Army Corps of Engineers earlier that month. He said that it was strongly suggested to him that if he knew what was good for him politically, he would reverse himself. So he did.

But he made it clear to me that when he reversed himself, he didn't personally believe in what he was doing. He said that he was "rolled" by higherups at the department over this issue.

He told me he'd

received the message that he should reverse himself from an attorney in Interior's Solicitor's office. He declined to name that person because he said the attorney is a friend.

“I made a decision that was in my

purview to make. I was overruled by somebody who didn't have my kind of experience," he told me. "I want to distinguish it from making a policy call based on fact, as opposed to making a policy call based on

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Mr. Spangle’s first letter, written Oct. 14, 2017, told the Corps, which was reviewing a previously issued, Section 404 Clean Water Act permit for

Vigneto, that it had incorrectly determined that the project was unlikely to affect endangered species. He wrote that the development could affect the Western yellow-billed cuckoo and the Northern Mexican gartersnake,

and ordered the Corps to conduct a full-scale biological assessment of the project as part of a consultation with the wildlife service on the development.

Then on Oct. 26, 2017, Mr. Spangle reversed himself and wrote a followup

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which would include groundwater pumping to serve the development – wouldn't be reviewed.

He said the question he has asked himself about this issue – and still hasn't been able to answer – is why the developer is applying

for the 404 permit if it doesn't believe it needs one to build the project. He said that higherups in

Washington cited a court case to back up their view, but he didn't think it applied in the case of Vigneto.

He told me, "When I

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contributing factors in his decision to accept a buyout from the department and retire when he did, although he also acknowledged that at age 64 at the time, he was at the point where he was ready to go reasonably soon.

Among the other issues he cited as influencing his feelings about the department were its decisions to shrink national monuments set aside by former President Obama, its loosening of restrictions on oil

drilling and public lands and its reversal of its longstanding position that the federal Migratory Bird Treaty Act could be enforced on parties such as mine open pits that unintentionally kill birds.

“The department is

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From: [Blackman, Roland](#)
To: [Joriani, Daniel](#)
Cc: [Frank Lupo](#); [Justin Tade](#)
Subject: Re: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle"s comments on it
Date: Wednesday, April 24, 2019 10:43:07 AM

Morning Dan,

Below is a brief background about the Villages at Vigneto project (b) (5)

[REDACTED]

If you have any additional questions about the project, our office is available to answer those questions.

RB

Best (b) (5)

(b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

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Best,

Roland Blackman
Acting Regional Solicitor|Southwest
Office of the Solicitor|Department of the Interior
(O) 505-248-5613 | (C) 202-520-1924

This email (including any attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, copying, or use of this e-mail or its content is strictly prohibited. If you receive this email in error, please notify the sender immediately and destroy all copies.

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I am hoping to
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Sincerely,

Tony Davis
Environmental
reporter
Arizona Daily
Star

520-806-7746

O

520-349-0350

C


--

Faith C. Vander Voort

Press Secretary & Senior Advisor to the Director of
Communications
Department of the Interior

From: [Romanik, Peg](#)
To: [Daniel Jorjani](#)
Cc: [Roland Blackman](#); [Frank Lupo](#); [Justin Tade](#)
Subject: Re: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it
Date: Thursday, April 25, 2019 6:21:40 PM

Dan, I just saw this email. (b) (5)



Peg

Peg Romanik
Associate Solicitor
Division of Parks and Wildlife
Office of the Solicitor
U.S. Department of the Interior
Office: (202)208-5578
Cell: (202)515-1000

----- Forwarded message -----

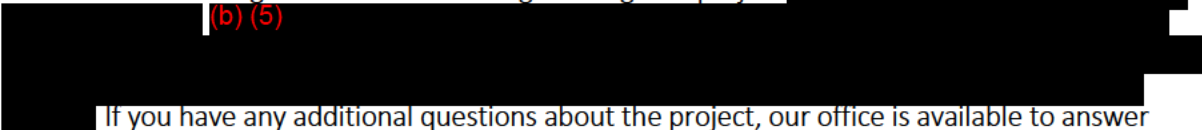
From: **Tade, Justin** <justin.tade@sol.doi.gov>
Date: Thu, Apr 25, 2019 at 6:13 PM
Subject: Fwd: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it
To: Peg Romanik <peg.romanik@sol.doi.gov>

----- Forwarded message -----

From: **Blackman, Roland** <roland.blackman@sol.doi.gov>
Date: Wed, Apr 24, 2019 at 8:43 AM
Subject: Re: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it
To: Jorjani, Daniel <daniel.jorjani@sol.doi.gov>
Cc: Frank Lupo <frank.lupo@sol.doi.gov>, Justin Tade <justin.tade@sol.doi.gov>

Morning Dan,

Below is a brief background about the Villages at Vigneto project (b) (5)



If you have any additional questions about the project, our office is available to answer those questions.

RB

Best (b) (5)

[REDACTED]

[REDACTED]

[REDACTED]

(b) (5)

[REDACTED]

(b) (5)



Best,

Roland Blackman
Acting Regional Solicitor|Southwest
Office of the Solicitor|Department of the Interior
(O) 505-248-5613 | (C) 202-520-1924

This email (including any attachments) is intended for the use of the individual or entity to which it is addressed. It may contain information that is privileged, confidential, or otherwise protected by applicable law. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, copying, or use of this e-mail or its content is strictly prohibited. If you receive this email in error, please notify the sender immediately and destroy all copies.

On Mon, Apr 22, 2019 at 6:17 PM Jorjani, Daniel <daniel.jorjani@sol.doi.gov> wrote:
Frank - much appreciated.

On Mon, Apr 22, 2019 at 7:58 PM Frank Lupo <frank.lupo@sol.doi.gov> wrote:

Justin-

See trailing messages below about Vigneto. Can you work with Roland on a short summary suitable for Dan? Ideally I think we should provide a written summary to get him up to speed and then be available via phone for follow up questions.

Dan-

Justin Tade is the regional attorney with the most direct knowledge of the Vigneto consultation. He can provide a synopsis and then answer any remaining questions. He should also review any public statements before released to Mr. Davis.

Thanks-
Frank

Sent from my iPad

On Apr 22, 2019, at 5:48 PM, Jorjani, Daniel <daniel.jorjani@sol.doi.gov> wrote:

On Mon, Apr 22, 2019 at 7:47 PM Roland Blackman
<roland.blackman@sol.doi.gov> wrote:

Will do. We will follow up with you on this.

Best,

Roland Blackman
(202) 520-1924
Sent from my iPhone

On Apr 22, 2019, at 5:43 PM, Jorjani, Daniel <daniel.jorjani@sol.doi.gov>
wrote:

Hi Roland- If Frank is out of the office, can you check with
someone on his team or with Rebekah for a general
backgrounder on the issue. Not time sensitive. Thank you. Dan

On Mon, Apr 22, 2019 at 7:37 PM Jorjani, Daniel
<daniel.jorjani@sol.doi.gov> wrote:

Roland and Frank - are you familiar with this FWS matter?
First, I'm hearing of it.

----- Forwarded message -----

From: **Vander Voort, Faith**

<faith_vandervoort@ios.doi.gov>

Date: Mon, Apr 22, 2019 at 7:24 PM

Subject: Fwd: [EXTERNAL] FW: Query from Tony Davis,
Arizona Daily Star, on the Vigneto case and Steve Spangle's
comments on it

To: Daniel Jorjani <daniel.jorjani@sol.doi.gov>

Cc: Interior Press <interior_press@ios.doi.gov>

Dan,
Please advise.

----- Forwarded message -----

From: **Davis, Tony** <TDavis@tucson.com>

Date: Tue, Apr 16, 2019 at 6:02 PM

Subject: [EXTERNAL] FW: Query from Tony Davis,
Arizona Daily Star, on the Vigneto case and Steve Spangle's

comments on it

To: interior_press@ios.doi.gov <interior_press@ios.doi.gov>

To the Interior Department's Office of Communications,

I am sending a second email to correct a factual error from my first email. I said in that email that Spangle wrote two letters on the Villages at Vigneto project to the Army Corps in Oct. 2017. Actually, the two letters were written in October 2016 and October 2017. The other two letters that I sent earlier were written by Spangle in 2004 and 2015.

Sorry about the error.

Sincerely,

Tony Davis

Arizona Daily Star

From: Davis, Tony

Sent: Tuesday, April 16, 2019 8:33 AM

To: interior_press@ios.doi.gov

Subject: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it

To the Office

of
Communications
U.S.
Department of
Interior:

I am working
on a story
based on a
recent
interview I had
with Steve

Spangle, who
until his March
2018
retirement was
for more than
15 years Field
Supervisor for
the U.S. Fish
and Wildlife
Service's
Arizona

Ecological
Services office
in Phoenix. I
am seeking
some
comments
from the
Interior
Department
solicitor's
office or from

the broader
department on
Mr. Spangle's
comments
regarding the
service's
decision to
reverse its
stand on a
major new
development

in Southern
Arizona.

My questions
pertain to two
letters that Mr.
Spangle sent
the U.S. Army
Corps of
Engineers back
in Oct. 2017
regarding the

Vllages at
Vigneto, a
planned,
28,000-home
development
in Benson, a
town of about
5,000 people
about an
hour's drive
east of Tucson.

I have attached those letters, along with two other, relevant letters on the development that he'd written in earlier years.

He told me that back in

October 2017,
he received
political
pressure,
indirectly,
from top-level
Interior
Department
officials to
reverse himself
on a crucial

letter he'd
previously
written,
pertaining to
Vigneto
development
in Benson,
Arizona he had
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earlier that
month. He said
that it was
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him that if he
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would reverse
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did. But he
made it clear
to me that
when he
reversed
himself, he
didn't
personally
believe in what
he was doing.
He said that he

was “rolled”
by higherups at
the department
over this issue.

He told me
he’d received
the message
that he should
reverse himself
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attorney in

Interior's
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office. He
declined to
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“I made a
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their part.”

Mr. Spangle’s
first letter,
written Oct.
14, 2017, told
the Corps,
which was
reviewing a
previously
issued, Section

404 Clean
Water Act
permit for
Vigneto, that it
had incorrectly
determined
that the project
was unlikely to
affect
endangered
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wrote that the
development
could affect
the Western
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cuckoo and the
Northern
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gartersnake,
and ordered
the Corps to

conduct a full-scale biological assessment of the project as part of a consultation with the wildlife service on the development.

Then on Oct.
26, 2017, Mr.
Spangle
reversed
himself and
wrote a
followup letter
to the Corps,
saying that
because the
developer had

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additional
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Because of the
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C

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Faith C. Vander Voort

Press Secretary & Senior Advisor to the Director of
Communications
Department of the Interior


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Justin S. Tade
Attorney-Adviser
Southwest Regional Solicitor's Office
Santa Fe Field Office
1100 Old Santa Fe Trail
Santa Fe, NM 87505
505.988.6721

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From: [Joriani, Daniel](#)
To: [Vander Voort, Faith](#)
Cc: [Interior Press](#)
Subject: Re: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle"s comments on it
Date: Thursday, April 25, 2019 8:03:07 PM

Faith - (b) (5)

A large black rectangular redaction box covering several lines of text.

Proposed answers below. Let me know if you need something else. Dan

Background:

(b) (5)

A large black rectangular redaction box covering the entire background section.

Proposed Responses (b) (5)

(b) (5)

A large black rectangular redaction box covering the entire proposed responses section.

(b) (5)

On Tue, Apr 23, 2019 at 7:35 AM Vander Voort, Faith <faith_vandervoort@ios.doi.gov> wrote:

Thank you, Dan.

On Mon, Apr 22, 2019 at 7:36 PM Jorjani, Daniel <daniel.jorjani@sol.doi.gov> wrote:
Sounds like an ex-employee unhappy with a policy decision. Will check with the region to see if I can get more background before providing you a draft response.



Daniel H. Jorjani
Principal Deputy Solicitor
U.S. Department of the Interior
Main Interior Building, Suite 6356
202-219-3861 (Voice)
202-706-9018 (Cell)
daniel.jorjani@sol.doi.gov

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On Mon, Apr 22, 2019 at 7:24 PM Vander Voort, Faith <faith_vandervoort@ios.doi.gov> wrote:

Dan,
Please advise.

----- Forwarded message -----

From: **Davis, Tony** <TDavis@tucson.com>
Date: Tue, Apr 16, 2019 at 6:02 PM
Subject: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it
To: interior_press@ios.doi.gov <interior_press@ios.doi.gov>

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Sorry about the error.

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Tony Davis

Arizona Daily Star

From: Davis, Tony

Sent: Tuesday, April 16, 2019 8:33 AM

To: interior_press@ios.doi.gov

Subject: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it

To the Office of
Communications
U.S. Department of
Interior:

I am working on a

story based on a recent interview I had with Steve Spangle, who until his March 2018 retirement was for more than 15 years Field Supervisor for the U.S. Fish and Wildlife Service's Arizona Ecological

Services office in
Phoenix. I am seeking
some comments from
the Interior
Department
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from the broader
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My questions pertain
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he'd written in earlier years.

He told me that back in October 2017, he received political pressure, indirectly, from top-level Interior Department officials to reverse himself on a crucial letter he'd previously

written, pertaining to
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he had written the
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politically, he would reverse himself. So he did. But he made it clear to me that when he reversed himself, he didn't personally believe in what he was doing. He said that he was "rolled" by higherups at the department over this

issue.

He told me he'd received the message that he should reverse himself from an attorney in Interior's Solicitor's office. He declined to name that person because he said the attorney is a friend.

“I made a decision that was in my purview to make. I was overruled by somebody who didn’t have my kind of experience,” he told me. “I want to distinguish it from making a policy call based on fact, as

opposed to making a policy call based on politics; I had a strong feeling this was a political decision on their part.”

Mr. Spangle’s first letter, written Oct. 14, 2017, told the Corps, which was reviewing

a previously issued,
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Water Act permit for
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Mr. Spangle said that only the impacts of the development's building in or near washes needed to be studied, and that had already been done in an informal consultation, in which he accepted the Corps' findings that

this work isn't likely to affect endangered species. His reversal meant that the impacts of the entire project – which would include groundwater pumping to serve the development – wouldn't be

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He said the question he has asked himself about this issue – and still hasn't been able to answer – is why the developer is applying for the 404 permit if it doesn't believe it needs one to build the project.

He said that
higherups in
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system.

“She said she was strongly encouraged to call me and point out the error of my ways. I wasn’t ordered to rescind my letter. I was advised that it was the right thing to do.

“In my job, I work for the administration. The administration’s position takes precedence over mine.”

But he also told me that in his tenure as FWS Arizona ES field supervisor and in his entire 29-year

career at the wildlife service, he had never before experienced political pressure from D.C. higherups and had never been overruled before by Washington-based administration officials. That record dates back to the

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Also, was then-
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a buyout from the department and retire when he did, although he also acknowledged that at age 64 at the time, he was at the point where he was ready to go reasonably soon.

Among the other issues he cited as

influencing his
feelings about the
department were its
decisions to shrink
national monuments
set aside by former
President Obama, its
loosening of
restrictions on oil
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lands and its reversal

of its longstanding position that the federal Migratory Bird Treaty Act could be enforced on parties such as mine open pits that unintentionally kill birds.

“The department is now much more anti-

regulatory and much more anti-environment,” he said. “The whole direction of the Department of the Interior was going in absolutely the opposite direction of where I thought it should, on many

issues.”

If DOI could get back to me with a response to any and/or all of Mr. Spangle’s comments by Thursday, I would greatly appreciate that. I am hoping to publish an article based on my

interview with him
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Sincerely,

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Arizona Daily Star

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520-349-0350 c

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Press Secretary & Senior Advisor to the Director of Communications
Department of the Interior

From: [Faith Vander Voort](#)
To: [Jorjani, Daniel](#)
Cc: [Interior Press](#)
Subject: Re: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle"s comments on it
Date: Thursday, April 25, 2019 8:05:50 PM

Thank you very much, Dan.

Sent from my iPhone

On Apr 25, 2019, at 8:03 PM, Jorjani, Daniel <daniel.jorjani@sol.doi.gov> wrote:

Faith - (b) (5)

Proposed answers below. Let me know if you need something else. Dan

Background:

(b) (5)

Proposed Responses (b) (5)

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Daniel H. Jorjani

Principal Deputy Solicitor

U.S. Department of the Interior

Main Interior Building, Suite 6356



202-219-3861 (Voice)



202-706-9018 (Cell)



daniel.jorjani@sol.doi.gov

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Please advise.

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Date: Tue, Apr 16, 2019 at 6:02 PM

Subject: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star,
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To: interior_press@ios.doi.gov <interior_press@ios.doi.gov>

To the Interior Department's Office of Communications,

I am sending a second email to correct a factual error from my first email. I said in that email that Spangle wrote two letters on the Villages at Vigneto project to the Army Corps in Oct. 2017. Actually, the two letters were written in October 2016 and October 2017. The other two letters that I sent earlier were written by Spangle in 2004 and 2015.

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Arizona Daily Star

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Subject: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it

To the Office of

Communications

U.S. Department
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I am working on a
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Field Supervisor
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solicitor's office
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My questions
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himself, he didn't personally believe in what he was doing. He said that he was "rolled" by higherups at the department over this issue.

He told me he'd received the

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He declined to
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“I made a decision that was in my purview to make. I was overruled by somebody who didn’t have my kind of experience,” he told me. “I want to distinguish it from making a policy

call based on fact,
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Mr. Spangle's first
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14, 2017, told the Corps, which was reviewing a previously issued, Section 404 Clean Water Act permit for Vigneto, that it had incorrectly determined that the project was unlikely to affect

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Then on Oct. 26,
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Because of the
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Spangle said that only the impacts of the development's building in or near washes needed to be studied, and that had already been done in an informal consultation, in

which he accepted
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which would
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pumping to serve
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He said the
question he has
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about this issue –
and still hasn't
been able to

answer — is why the developer is applying for the 404 permit if it doesn't believe it needs one to build the project. He said that higherups in Washington cited a court case to back up their

view, but he didn't think it applied in the case of Vigneto.

He told me,
“When I got the call that day, the first word I got from the attorney in the solicitor's office was, ‘I just

got a call from a very high political person in the department.’ She wouldn’t reveal the name. It was a politically manipulated motivation of the system.

“She said she was

strongly
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“In my job, I work

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But he also told
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wildlife service, he
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higherups and had
never been
overruled before

by Washington-based administration officials. That record dates back to the Ronald Reagan presidency, he noted to me.

I'm writing to seek Interior's

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Also, was then-
Deputy Secretary
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He also said the
Vigneto case and
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department and
retire when he did,
although he also
acknowledged that
at age 64 at the
time, he was at the
point where he
was ready to go

reasonably soon.

Among the other issues he cited as influencing his feelings about the department were its decisions to shrink national monuments set aside by former President Obama,

its loosening of
restrictions on oil
drilling and public
lands and its
reversal of its
longstanding
position that the
federal Migratory
Bird Treaty Act
could be enforced
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mine open pits that unintentionally kill birds.

“The department is now much more anti-regulatory and much more anti-environment,” he said. “The whole direction of the Department of the

Interior was going in absolutely the opposite direction of where I thought it should, on many issues.”

If DOI could get back to me with a response to any and/or all of Mr. Spangle’s

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520-806-7746 o

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Cc: [Jorjani, Daniel](#); [Interior Press](#)
Subject: Re: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle"s comments on it
Date: Thursday, April 25, 2019 8:09:53 PM

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John M Bockmier
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Senior Advisor Communications
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202.208.3636 Office
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Subject: Re: [EXTERNAL] FW: Query from Tony Davis, Arizona Daily Star, on the Vigneto case and Steve Spangle's comments on it
Date: Thursday, April 25, 2019 8:13:54 PM

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Spangle
reversed

himself and
wrote a
followup letter
to the Corps,
saying that
because the
developer had
said that the
project could
and would be
built even if

the Clean
Water Act
permit weren't
granted to
Vigneto, no
additional
consultation,
including that
biological
assessment,
would be

required.

Because of the
developer's
position that
the permit
wasn't needed,
Mr. Spangle
said that only
the impacts of
the
development's

building in or
near washes
needed to be
studied, and
that had
already been
done in an
informal
consultation, in
which he
accepted the

Corps’ findings that this work isn’t likely to affect endangered species. His reversal meant that the impacts of the entire project – which would

include
groundwater
pumping to
serve the
development –
wouldn't be
reviewed.

He said the
question he has
asked himself
about this issue

– and still
hasn't been
able to answer
– is why the
developer is
applying for
the 404 permit
if it doesn't
believe it
needs one to
build the

project. He
said that
higherups in
Washington
cited a court
case to back up
their view, but
he didn't think
it applied in
the case of
Vigneto.

He told me,
“When I got
the call that
day, the first
word I got
from the
attorney in the
solicitor’s
office was, ‘I
just got a call
from a very

high political
person in the
department.’
She wouldn’t
reveal the
name. It was a
politically
manipulated
motivation of
the system.

“She said she

was strongly encouraged to call me and point out the error of my ways. I wasn't ordered to rescind my letter. I was advised that it was the right

thing to do.

“In my job, I
work for the
administration.

The
administration’s
position takes
precedence
over mine.”

But he also

told me that in
his tenure as
FWS Arizona
ES field
supervisor and
in his entire
29-year career
at the wildlife
service, he had
never before
experienced

political
pressure from
D.C. higherups
and had never
been overruled
before by
Washington-
based
administration
officials. That
record dates

back to the
Ronald Reagan
presidency, he
noted to me.

I'm writing to
seek Interior's
comments on
Mr. Spangle's
remarks. Was
he essentially
overruled by

higherups at
the department
and strongly
urged to
reverse his
position, as he
said to me?
Was there
political
pressure put on
him to reverse

his stance?

Also, was
then-Deputy
Secretary
David
Bernhardt
involved in
any way in
helping
advance the
case for

changing the
department's
stance on this
matter?

He also said
the Vigneto
case and what
he viewed as a
growing anti-
environmental
stance at the

Interior
Department
were
contributing
factors in his
decision to
accept a
buyout from
the department
and retire
when he did,

although he
also
acknowledged
that at age 64
at the time, he
was at the
point where he
was ready to
go reasonably
soon.

Among the

other issues he
cited as
influencing his
feelings about
the department
were its
decisions to
shrink national
monuments set
aside by
former

President
Obama, its
loosening of
restrictions on
oil drilling and
public lands
and its reversal
of its
longstanding
position that
the federal

Migratory Bird
Treaty Act
could be
enforced on
parties such as
mine open pits
that
unintentionally
kill birds.

“The
department is

now much
more anti-
regulatory and
much more
anti-
environment,”
he said. “The
whole
direction of the
Department of
the Interior

was going in
absolutely the
opposite
direction of
where I
thought it
should, on
many issues.”

If DOI could
get back to me
with a

response to
any and/or all
of Mr.
Spangle's
comments by
Thursday, I
would greatly
appreciate that.
I am hoping to
publish an
article based

on my
interview with
him and your
responses in
the upcoming
Sunday
editions of the
Star.

Sincerely,

Tony Davis

Environmental
reporter

Arizona Daily
Star

520-806-7746

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520-349-0350

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Faith C. Vander Voort

Press Secretary & Senior Advisor to the Director of
Communications
Department of the Interior

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